

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-16-0267
DANTE BAILEY, et al.,)
Defendants.)
_____)

Monday, April 22, 2019
Courtroom 1A
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
(AND A JURY)

VOLUME XVIII

For the Plaintiff:

Christina Hoffman, Esquire
Lauren Perry, Esquire
Assistant United States Attorneys

For the Defendant Dante Bailey:

Paul Enzinna, Esquire
Teresa Whalen, Esquire

Reported by:

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1 For the Defendant Randy Banks:

2 Brian Sardelli, Esquire

3 For the Defendant Corloyd Anderson:

4 Elita Amato, Esquire

5
6 For the Defendant Jamal Lockley:

7 Harry Trainor, Esquire

8 For the Defendant Shakeen Davis:

9 Paul Hazlehurst, Esquire

10
11 Also Present:

12 Special Agent Christian Aanonsen, ATF

13 Stuart Simms, Esquire,

14 Counsel for Davon Temple

P R O C E E D I N G S

(10:17 a.m.)

THE COURT: Good morning, everyone.

All right. So we met in chambers and discussed some things briefly.

I know there are various issues.

We also want to have an opportunity for defense counsel to put any motions on the record.

Let me just address one issue -- well, I guess, let's see.

Ms. Whalen -- I see Ms. Whalen is not back yet. She's still talking to the witness, so I will wait on that question.

Are we comfortable from Mr. Bailey's point of view with going ahead with motions? Are you going to be arguing them?

MR. ENZINNA: Yes, Your Honor. We're fine.

THE COURT: Is that all right, Mr. Bailey?

DEFENDANT BAILEY: Yes.

THE COURT: All right. Then I think that's the main thing we wanted to do before the jury is here.

So I will start with counsel for Mr. Bailey. Do you have any motions that you want to make?

Oh, I'm sorry. We're at the close of the Government's case except for the demonstrative exhibit.

You want to just make mention of that?

1 **MS. HOFFMAN:** That's right. We had some discussion
2 about this in chambers and last week. We have a demonstrative
3 exhibit that was shown for identification only to
4 Agent Aanonsen last week.

5 We have reorganized the photos in the chart so that
6 they are in alphabetical order, aside from the defendants, who
7 appear at the top.

8 And we would like to put DEM-5 into evidence. I don't
9 know whether we need to re-call Agent Aanonsen or simply move
10 them into evidence and put them up on the screen.

11 And then I think we are prepared to rest our case.

12 **THE COURT:** Okay. Does anyone -- you want to maintain
13 any objection to Demonstrative No. 5? Any specific objections?
14 I think everybody's had a chance to look at it.

15 **MR. SARDELLI:** Yes, Your Honor. I understand we
16 talked about this in chambers earlier this morning, Your Honor.
17 But we would prefer -- we would argue for separate -- actual
18 separate photos, Your Honor.

19 I know that's going to be more cumbersome, Your Honor.
20 But I think this still does give the impermissible notion that
21 somehow the conspiracy already exists and it's already been
22 proven, Your Honor, so we would again request individual photos
23 with the names on it.

24 I know it's going to require multiple photos,
25 Your Honor. But I think in an abundance of caution, I'm just

1 worried that looking at them, they're going to think the
2 conspiracy already exists.

3 Thank you, Your Honor.

4 **THE COURT:** Okay. And I'm going to assume everybody
5 joins in that.

6 **MR. HAZLEHURST:** Your Honor, in lieu -- either -- on
7 behalf of Mr. Davis, either individual photos -- at the very
8 least, Your Honor, I would ask that on behalf of Mr. Davis,
9 that the exhibit just show everybody in alphabetical order,
10 that it not elevate those defendants who are actually present
11 in the courtroom.

12 I think the jury is sophisticated enough to understand
13 that these were all -- this is the universe of people who were
14 allegedly involved in the case.

15 **THE COURT:** Okay. I'm going to overrule the
16 objection. I've seen the exhibit. And I think it's perfectly
17 reasonable to have the five individuals that are actually on
18 trial in a separate row; and then after that, everybody is
19 alphabetical.

20 I don't see anything prejudicial in any way. It's
21 nothing that hasn't come into evidence, and it's much easier
22 for the jury to have that sort of chart -- indeed, they
23 requested it -- rather than to go through individual
24 photographs.

25 So when the jury comes back in, we will have the

1 Government just offer it. They can put it on the screen. It
2 will be admitted. And they'll rest their case.

3 So I think we are sufficiently at the end of the
4 Government's case with that one more exhibit, right, that I can
5 turn to counsel.

6 I see Ms. Whalen is now here as well.

7 Let me preliminarily -- Ms. Whalen, I'm aware that you
8 have been, I believe, interviewing a potential alibi witness.

9 **MS. WHALEN:** Your Honor, I can tell you that I've been
10 waiting to do so. I did get to see him for about two minutes.

11 **THE COURT:** Okay.

12 **MS. WHALEN:** And I did ask him whether he wished to
13 have counsel or to at least consult with counsel.

14 **THE COURT:** Yes.

15 **MS. WHALEN:** And he does wish to do that.

16 **THE COURT:** He does?

17 **MS. WHALEN:** Yes.

18 **THE COURT:** Thank you for making that inquiry.

19 I'm going to ask Ms. Moyé to send an e-mail to
20 Maureen Essex. I did speak with Ms. Essex indicating that
21 there might be such a request for counsel, hopefully somebody
22 we can have available today to speak with Mr. Temple.

23 So if you could send Ms. Essex -- just say,
24 "Mr. Temple would like counsel."

25 **THE CLERK:** Okay.

1 **THE COURT:** Okay. Then I will in a moment turn to
2 either Mr. Enzinna or Ms. Whalen.

3 Do you wish to make any motion on behalf of
4 Mr. Bailey?

5 **MS. WHALEN:** We do, Your Honor.

6 Two areas. We'd make the motion, Your Honor,
7 regarding all counts.

8 However, just two areas to really highlight in
9 argument.

10 The first is the aiding and abetting theory that the
11 Government has. I understand that did come up at the charge
12 conversation about the jury instructions.

13 My understanding of the Government's theory is that
14 Mr. Edwards -- at least as to aiding and abetting in the
15 James Edwards murder.

16 **THE COURT:** Right.

17 **MS. WHALEN:** Mr. Edwards is -- was killed. The
18 Government's theory is that Dante Bailey, because he was a
19 leader, must have been involved in it and/or ordered or the
20 like.

21 I think the evidence on that count, however, is just
22 this: Mr. Hankins said that Mr. Wedlock -- so a statement in
23 furtherance of the conspiracy. Mr. Wedlock said that he
24 thought Dante Bailey was going to send him to kill Bangout, so
25 that was one piece of evidence by a co-conspirator.

1 The second was that Mr. Banks indicated that about six
2 to seven months later, I believe it was, that my client
3 admitted to -- I think his words were he said he did it.

4 And then Jay Greer, again, said that about a year
5 later, while he was in prison with my client, that he
6 acknowledged that murder.

7 And then the only other piece of evidence I think that
8 came in about the Edwards murder other than the weapon, which
9 I'll mention in a moment, is that Mal or Lil Mal told
10 Mr. Lashley that he dropped Mr. Edwards off to Gutta.

11 All of those, I would suggest, only point -- oh, and
12 then Mr. Banks says that on February 8th, there was
13 a .40-caliber weapon that my client used at the gas station.
14 And there has been testimony that the .40-caliber
15 cartridge casing from that scene matched the cartridge casing
16 that was at the scene of the Edwards murder.

17 So -- and that, again, relies upon Mr. Banks, the
18 relevance of that, I think, and in any way making the
19 cartridge casings important are -- relies upon Mr. Banks'
20 statements as well.

21 The Government's theory has been always that the
22 killing was done by Mr. Bailey and no one else. And I don't
23 think there's any evidence to support that the killing was done
24 by anyone other than Mr. Bailey. So I think their theory of
25 aiding and abetting should not be put before the jury.

1 And then, secondly, the quality of the evidence, if
2 you will, I think we are asking Your Honor to take a look at
3 the quality of the evidence on that particular count.

4 It relies solely on co-conspirator statements in
5 furtherance of the conspiracy or solely on statements made by
6 cooperators in this particular case who have admitted to lying
7 in the past, who have admitted to lying to the Government in
8 the past. And that level, without anything more, any direct
9 evidence, I would suggest the Government hasn't met its burden
10 at this stage.

11 **THE COURT:** So, to be clear, are you arguing both that
12 there -- essentially, the aiding and abetting theory is not
13 supported and should not be instructed? But also that there is
14 insufficient evidence --

15 **MS. WHALEN:** Yes.

16 **THE COURT:** -- to proceed in general, even on a theory
17 that Mr. Bailey directly caused this?

18 **MS. WHALEN:** Yes, Your Honor, that is what I'm
19 articulating or trying to articulate.

20 **THE COURT:** Okay.

21 **MS. WHALEN:** Thank you.

22 **THE COURT:** All right. Mr. Sardelli.

23 **MR. SARDELLI:** Your Honor, we would also make a motion
24 as to all counts as well, Your Honor, but I'm going to go ahead
25 and focus on some specifics as well, Your Honor.

1 First of all, I think, as the Court is aware, my
2 client's not charged with individual offenses. He's charged
3 with the two conspiracy offenses, the RICO and the drug
4 conspiracy, Your Honor.

5 So specifically as to all counts, we would focus on
6 the agreement. I don't believe there's any direct evidence of
7 an actual agreement, a phone call, or a cooperator who
8 specifically say [sic] that he agreed to anything or anything
9 in my client's voice or anything else, Your Honor.

10 I'm also using -- the verdict form, obviously, came up
11 this morning in chambers. And based on them tying in to the
12 Rule 29 motion, because I have severe concerns based on the
13 verdict form that there's no evidence at all linking my client
14 to any of these homicides or any of these homicides were
15 reasonably foreseeable.

16 They've got first-degree murder on there. As for all
17 these individual predicate RICO offenses -- except for drug
18 trafficking. I understand there is evidence of drug
19 trafficking.

20 But first-degree murder, second-degree murder,
21 attempted murder, conspiracy to commit murder, extortion,
22 robbery -- the Government did not present the robbery
23 allegation that they had thought about presenting before,
24 Your Honor.

25 Money laundering, witness tampering, witness

1 retaliation.

2 Clearly there is evidence -- we disagree with it --
3 but clearly there is evidence about drug trafficking. But for
4 all those predicate offenses, which I'm very concerned about
5 based on the proposed verdict form, besides the drug
6 trafficking, Your Honor, specifically -- the evidence as I
7 remember it in this case specifically dealt with alleged
8 cocaine, either crack or powder, trafficking as well.

9 So for the RICO offenses, I'm concerned. Again, I
10 would ask for a Rule 29 motion on anything that there is not
11 evidence of being reasonably foreseeable, whether it's
12 first-degree murder, robbery, or any of the other ones,
13 Your Honor.

14 I think the only thing that came into evidence with my
15 client is the drug trafficking, Your Honor.

16 And, second, going back to the Part 2 of it, which is
17 the conspiracy to distribute drugs in this case, the other
18 conspiracy count, Your Honor, I believe most of the evidence --
19 all the evidence I remember was either powder or crack cocaine.
20 Either the cooperating witnesses or other people talking about
21 drug trafficking of my client, it was cocaine.

22 I don't believe there's any evidence of heroin,
23 Fentanyl, marijuana, anything else being reasonably foreseeable
24 to my client as well, Your Honor.

25 So basically, to summarize it, even for the RICO, the

1 only predicate offenses the Government has proved from my
2 memory of the case, Your Honor, would be cocaine trafficking,
3 either powder or crack.

4 And with the drug trafficking as well, the conspiracy
5 to distribute the drugs, Your Honor, that would be the same
6 thing. I don't remember any evidence of anything like heroin,
7 Fentanyl, marijuana, or anything else being reasonably
8 foreseeable to my client.

9 So I think my client's Rule 29 motion and then the
10 verdict form has to be focused on the cocaine trafficking,
11 which we disagree with, but we acknowledge there has been some
12 evidence on that, Your Honor.

13 **THE COURT:** Okay.

14 **MR. SARDELLI:** So that's where I focus my motion in
15 this case, Your Honor.

16 **THE COURT:** All right.

17 **MR. SARDELLI:** Thank you.

18 **THE COURT:** Thank you.

19 Mr. Trainor.

20 **MR. TRAINOR:** Thank you, Your Honor.

21 On behalf of Mr. Lockley, I would move for judgment of
22 acquittal as to the counts in which he is charged, which I
23 believe are Counts 1, 2, and 10, on the grounds that the
24 evidence is insufficient to go forward at this point on each of
25 the elements of each count.

1 Specifically, as to Count 1, the RICO conspiracy, the
2 evidence so far has shown that Mr. Lockley was not a member of
3 the MMP gang.

4 And it's our position that he is -- the evidence is
5 insufficient at this point to go forward, particularly on the
6 element that he would have knowingly conspired with one or more
7 persons to conduct or participate in the affairs of the MMP
8 enterprise.

9 It's our position that the Government has not
10 established that sufficiently.

11 Also, as to any racketeering act other than drug
12 trafficking, there is very little or no evidence to support the
13 other racketeering acts that are alleged.

14 As to Count 2, the drug-trafficking conspiracy, it's
15 our position that the Government may have proven a series of
16 smaller drug conspiracies, but not the single, all-inclusive
17 conspiracy alleged in the indictment from 2011 until the date
18 of the second superseding indictment.

19 And that's it. Thank you.

20 **THE COURT:** Okay. Thank you.

21 Ms. Amato.

22 **MS. AMATO:** As to Mr. Anderson, I move for judgment of
23 acquittal as to all counts.

24 The evidence does not support the charges.

25 As to Count 1, the RICO, I would submit that the

1 evidence does not support that Mr. Anderson was a member of
2 MMP. We heard from four cooperators. Two said that he was not
3 a member.

4 One, Mr. Greer, thought he was a member only because
5 Greer said that the individual had gold implants in his mouth.
6 Clearly, we've heard from many witnesses. We've seen
7 photographs. Clearly, he's confusing Mr. Anderson with someone
8 else, because Mr. Anderson does not have and wear gold implants
9 in his -- the front of his teeth.

10 The only other witness the Government claimed that --
11 claimed Mr. Anderson was in MMP was William Banks. But
12 clearly, his testimony is contradicted by the other witnesses.

13 In terms of the acts in furtherance of the
14 racketeering, the only one I believe that there was evidence
15 relating to was the drug conspiracy. I don't believe there was
16 evidence as to the other charges or the other overt acts and
17 assertions and allegations that the Government provided, at
18 least in their verdict form.

19 In terms of the -- Mr. Anderson's connection as well
20 to the conspiracy-at-large, the -- there are evidence -- there
21 is evidence the Government did provide calls between
22 Mr. Anderson and Mr. Lockley if, as, of course, the Court has
23 to consider the evidence in light of the Government, that those
24 calls pertained to drug trafficking.

25 As we just heard, Mr. Lockley was certainly not a

1 member of MMP. If anything, the testimony was that he was a
2 5200 boy, someone that lived in the neighborhood. And so if
3 anything, I would submit that there was a different conspiracy
4 that Mr. Anderson was involved with.

5 Also, in terms of the statement that Mr. Anderson
6 gave, the statement was that he sold heroin on one occasion,
7 which would support a buyer-seller activity, not a conspiracy.

8 So that is what I would argue.

9 Thank you.

10 **THE COURT:** Okay.

11 Mr. Hazlehurst.

12 **MR. HAZLEHURST:** Thank you, Your Honor.

13 Your Honor, on behalf of Mr. Davis, I am moving for
14 judgment of acquittal on the six counts in which he's charged
15 in the indictment under Rule 29 of the Federal Rules of
16 Criminal Procedure.

17 Your Honor, in regard to the first count, racketeering
18 conspiracy, I believe that the evidence -- quite frankly, when
19 we start at the beginning, the Government has failed to
20 establish that he ever joined the conspiracy.

21 There certainly has never been any evidence that he
22 was initiated in any way. There was discussion by cooperating
23 witnesses of initiation procedures, but no evidence that he
24 ever joined or pledged to join any conspiracy.

25 There has also been conflicting evidence in regard to

1 any affiliation he may have in regard to what we have come to
2 term MMP. He has been described as being MMP without any
3 supporting evidence as to what would make that characterization
4 stick, if you will.

5 He's been described as being part of something called
6 5200, which is not something that's charged in the indictment.
7 And there's been sort of switching back and forth.

8 And each of these alleged organizations, in many
9 respects, have been very amorphous. We don't know what defines
10 them.

11 And, again, there has been nothing that is established
12 that Mr. Davis has been or ever was a part of the conspiracy,
13 much less that he approved of or knew of any of the overt acts
14 that were allegedly committed or that he committed any of the
15 overt acts that are alleged against him.

16 Your Honor, in regard to the second count, the
17 conspiracy to distribute controlled, dangerous substances,
18 again, I think -- I would echo some of the comments of prior
19 counsel, that there have been multiple connections, if you
20 will, that have been alleged.

21 There have been a lot of people that have been
22 mentioned in this case, and there's really never been any
23 discernible organization that's been set forth by the
24 Government that has a top-down or a bottom-up, essentially,
25 structure to it.

1 There have been allegations that Mr. Davis was
2 purchasing drugs from certain sources; but, again, they're
3 different sources.

4 And, again, it is not something that is consistent
5 with the allegation that there was a conspiracy consisting of
6 the people who have been mentioned in the indictment that
7 Mr. Davis ever joined.

8 Your Honor, there was also at least one piece of
9 evidence that was testified to by one of the cooperating
10 witnesses that Mr. Davis worked alone. He worked by himself.

11 And, again, because of these different potential
12 sources, it doesn't support the conspiracy that the Government
13 has alleged.

14 Your Honor, as to Count 3, which is the felon in
15 possession charge, which count -- or Count 16, I'm sorry,
16 Your Honor, the third count in which he's charged, which is
17 April 26th, 2016, I'm going to submit as to that.

18 The fourth count in which he's charged is Count 30,
19 which is a February 24th, 2017 felon in possession charge. I
20 also will submit in regard to that.

21 The fifth count, which is possession with the intent
22 to distribute crack, that's Count 31, was alleged to have
23 occurred on February 24th, 2017.

24 Your Honor, in that regard, one, I don't believe there
25 has been any evidence as to that particular date that Mr. Davis

1 was engaged in trafficking any sort of drugs.

2 There has been evidence that he was found to be in
3 possession of drugs; but if the Court will recall, when the
4 chemist was called to testify, only one bag of the four bags
5 that Mr. Davis was alleged to have possessed was actually
6 tested.

7 There has not been any observation, I believe, in
8 any -- from any witness in this case of Mr. Davis selling drugs
9 at any time, much less on that date.

10 Your Honor, I also would -- quite frankly, he's
11 charged with possession with intent to distribute cocaine base,
12 and I don't believe that the testimony of the chemist in this
13 regard was that it was cocaine base. Simply that it was
14 tested -- the one bag that was tested was powder cocaine.

15 Because there is insufficient evidence in regard to
16 drug trafficking, Your Honor, I believe that the 32nd count,
17 the sixth count in which Mr. Davis is charged, which is
18 basically possession of a firearm in furtherance of a
19 drug-trafficking offense, is not supported.

20 **THE COURT:** Okay.

21 **MR. HAZLEHURST:** Thank you.

22 **THE COURT:** Thank you, Mr. Hazlehurst.

23 I'll be happy to hear from the Government.

24 **MS. HOFFMAN:** Thank you.

25 I will start with Mr. Bailey.

1 Well, first, I'll start with the legal standard,
2 which, of course, is that the evidence should be considered in
3 the light most favorable to the Government. And the Court
4 should determine whether the Government has made out a
5 prima facie case.

6 Starting with Mr. Bailey, he has focused in on
7 Count 3, and specifically the aiding and abetting instruction.

8 We did charge aiding and abetting in the indictment.
9 Certainly, the direct evidence in this case, the evidence in
10 the form of testimony from cooperators, has been that Bailey
11 himself pulled the trigger and killed Bangout himself.

12 But there has also been quite a lot of circumstantial
13 evidence tying Bailey to that crime. For instance, there was
14 evidence that he used, of course, the same gun, the murder
15 weapon, to shoot at people at the BP gas station just three
16 nights earlier.

17 There's been evidence about phone records showing that
18 he made phone calls to Nizzy and Nick on that night.

19 There's been evidence that Nizzy and Nick were with
20 him when he committed the murder.

21 There's been evidence that he took a screenshot of a
22 Baltimore Twitter post about the murder in the early -- in the
23 morning hours before the victim's name had been made public.

24 So there's been a lot of -- and this is just some of
25 the circumstantial evidence tying Mr. Bailey to that murder.

1 And we do believe that that supports an instruction of aiding
2 and abetting as well and that the jury could reasonably find
3 that even if Mr. Bailey didn't himself pull the trigger, that
4 he ordered it or that he aided and abetted that murder.

5 So we do believe that that instruction is appropriate
6 and certainly that there's sufficient evidence to support
7 Count 3 and the murder of Bangout as well as the other counts.

8 It's difficult to summarize five weeks of evidence in
9 just a few minutes, and I won't attempt to do that.

10 But the evidence is much more than just the cooperator
11 testimony. The cooperator testimony is fairly consistent. We
12 have William Banks saying that Bailey confessed to the murder.

13 We have Jay Greer saying Bailey confessed to the
14 murder and gave specific details which matched up with crime
15 scene photos that Mr. Greer had no way of knowing about.

16 And other ballistic evidence and phone evidence that
17 I've mentioned.

18 And I'll try to make this brief.

19 Moving on to Randy Banks, he argues that there's no
20 direct evidence of a conspiratorial agreement. Of course, we
21 don't need to have direct evidence of an agreement, and
22 frequently there's not direct evidence of an agreement.

23 But we do have a wealth of cooperator testimony that
24 Randy Banks, Dirt, was in the gang, that he was a member of
25 MMP, and testimony -- just to give one example, Mr. Greer

1 testified about going to Randy Banks' trap house with Gutta and
2 mixing up crack cocaine with him. So there's certainly
3 evidence to support that he was part of the conspiracy.

4 With respect to the other racketeering activities that
5 are listed in the verdict sheet, I think there has been plenty
6 of evidence as to those racketeering activities as well for the
7 jury to infer that those racketeering activities were
8 foreseeable to Mr. Banks.

9 For example, with respect to murder, there has been
10 evidence that Mr. Banks was present when -- at the scene of the
11 Mirage nightclub when William Banks attempted to murder
12 Samartine Hill, a/k/a Snook. We saw him in the video footage.

13 We saw excerpts from a screenplay that Mr. Bailey had
14 authored sometime later that matched up with the facts of that
15 shooting and described -- indicated that Dirt had prior
16 knowledge of what was about to happen at the Mirage nightclub.

17 We also, of course, had testimony from Devin Ferguson
18 that Randy Banks threatened him with murder. And so we believe
19 that murder -- there's certainly enough evidence for the jury
20 to conclude that murder was a foreseeable racketeering activity
21 to Mr. Banks.

22 And there's been evidence of his involvement, at least
23 circumstantial evidence of his involvement in the Eastside
24 murder.

25 With respect to the specific drugs at issue, of

1 course, there's been evidence that he was primarily a supplier
2 of cocaine and crack cocaine. But it was, I think, certainly
3 reasonably foreseeable to him, based on the evidence, that
4 heroin and other drugs were sold at these drug shops as well.

5 Moving on to Jamal Lockley, it has never been our
6 contention, and we said in opening statement that Mr. Lockley
7 was not an actual member of MMP. Of course, the law does not
8 require that he be an actual member of MMP in order to be
9 guilty of a RICO conspiracy.

10 And there are abundant wire calls putting him in this
11 conspiracy, talking with other MMP members, including
12 Adrian Jamal Spence, Spittle, and Corloyd Anderson, Bo, about
13 the trafficking of narcotics in MMP's territories.

14 There's a jail call from Bailey in which Mr. Bailey
15 tells Mr. Lockley that Trouble is cooperating against the gang
16 and to send him to M-Easy.

17 So we have evidence that he was involved in a
18 conspiracy to murder a witness against the gang.

19 And then there's also been evidence that he was
20 involved in the murder of Anthony Hornes, which was a
21 retaliatory murder, a murder committed in retaliation or
22 attempted retaliation for the murder of Mookie, an MMP member.

23 And so there's a wealth of evidence that he was part
24 of this conspiracy, that he sought by his actions to make it
25 succeed, both through drug trafficking, but also through

1 murder, through murder as well.

2 As to Mr. Anderson, Ms. Amato argues the evidence
3 doesn't support that he was a member of MMP. We had two
4 cooperating witnesses testify that he was a member of MMP; in
5 fact, that he was a high-ranking member.

6 There are also references to him under other names:
7 Fat Tony and Jim, which we heard were sometimes used as
8 nicknames for Bo. There are references to him in the gang
9 paperwork where he's referred to as a high-ranking member.

10 In terms of the other racketeering activities listed
11 in the indictment, we do think that there has been sufficient
12 evidence for the jury to conclude that murder was foreseeable
13 to Corloyd Anderson.

14 First of all, there was testimony by William Banks
15 that Corloyd Anderson provided the gun that Gambino,
16 Dontray Johnson, used to kill Antoine Ellis, a/k/a Poopy, and
17 that he disposed of it afterwards.

18 There was also -- we saw a -- just a few days after
19 the attempted murder of Samartine Hill or Snook at the Mirage
20 nightclub, we saw video footage of a meeting between Gutta;
21 William Banks, Trouble; and Corloyd Anderson in which Trouble
22 was wearing a Murdaland Mafia jacket.

23 And we've, of course, heard a number of wire calls in
24 which Mr. Anderson is -- a number of wire calls and jail calls
25 in which he's mentioned in the context of the gang or in which

1 he directly participates in supplying drugs to Jamal Lockley.

2 Moving on to Shakeen Davis, Mr. Hazlehurst argues that
3 there's no evidence that he was initiated into the gang.

4 I think there has been abundant evidence that
5 Mr. Davis was a member of the gang, both in the form of
6 cooperator testimony but also social media evidence, in which
7 Mr. Davis is making the M for MMP and writes comments such as
8 "Murdaland Mafia, the world is ours." That's certainly enough
9 evidence for the jury to infer that he was identifying himself
10 as a member of the gang.

11 And I don't think there's any -- there's been any
12 evidence in this case that there's an inconsistency between
13 being a member of MMP and also being a 5200 boy, which was one
14 of MMP's territories.

15 There has been evidence that Mr. Davis was responsible
16 for an attempted murder on May 30th of 2015. This is a murder
17 that there was cooperator testimony from both William Banks and
18 Malcolm Lashley that Shakeen Davis committed that murder
19 because he was defending a fellow gang member, Nutty B, who had
20 been robbed. And he went to his car -- he went and got an
21 AR-15 from his car and shot at the people who had attempted to
22 rob Nutty B, so that's a retaliatory attempted murder.

23 And there was other evidence of that murder as well in
24 the form of a jail call in which he says he had to change the
25 color of his car because he did some dumb shit out of the car.

1 There -- I apologize. I lost my train of thought.

2 Moving on to, I think, Count 16 and Count 30,
3 Mr. Hazlehurst said he would submit.

4 Counts 31 and 32, this is the arrest of Shakeen Davis
5 on February 24th of 2017. There was testimony that recovered
6 from his person was a distribution quantity of crack cocaine.

7 My recollection is that the chemist testified that it
8 was cocaine base. So I don't think it's accurate that it was
9 powder -- that it tested for powder cocaine. Certainly the lab
10 report shows it was crack cocaine. I believe that's what the
11 chemist testified to.

12 Moreover, we put in evidence the text messages from
13 Mr. Davis's cell phone which was seized on the same day which
14 was replete with text messages about distributing heroin and
15 crack cocaine, including in the days leading up to his arrest.
16 I think even on the day of his arrest there were text messages
17 with drug customers.

18 So that's certainly enough evidence to support the
19 possession with intent to distribute count as well as the
20 924(c) count. He had a gun in his waistband and distribution
21 quantities of drugs on his person, and there's, I think, ample
22 Fourth Circuit case law holding that the jury can infer from
23 that that the gun -- he had the gun to protect his drugs and
24 his drug proceeds.

25 And I'm sure I've missed things. I'm happy to answer

1 specific questions Your Honor may have.

2 **THE COURT:** Okay. Thank you.

3 I appreciate the arguments.

4 As pointed out, of course, at this stage of the case,
5 under Rule 29, I need to look at the evidence in the light most
6 favorable to the Government, and I am going to -- I will
7 reserve on the aiding and abetting question as to Count 3 for
8 Mr. Edwards.

9 I am otherwise denying the motions.

10 First of all, I think there is ample evidence of the
11 existence of the RICO conspiracy that's charged. And as to all
12 the defendants, there's -- again, looking at it in the light
13 most favorable to the Government -- ample evidence that the
14 individual defendant either was a member of MMP or was
15 associated in some way.

16 Of course, the law does not require that the
17 individual defendant be a member of the enterprise. They have
18 to be associated with, employed by. There's other language
19 that is sufficient.

20 As to the individual predicate acts, I think there is
21 substantial evidence as to a number of them for a number of
22 defendants.

23 I don't see -- we can discuss this further in the
24 context of the verdict sheets and perhaps the jury
25 instructions. But I don't see an argument about the

1 possibility that one or more of the charged predicate acts was
2 not foreseeable to a particular defendant as a basis for
3 granting a motion as to that count. It's a somewhat different
4 argument.

5 And I think as to all the defendants, there is, at a
6 minimum, sufficient evidence to go to the jury of two predicate
7 acts of drug trafficking being reasonably foreseeable. I'm
8 just not going to go through it at this point as to each
9 individual defendant. There's evidence to support more than
10 those predicate acts, but at least the drug trafficking,
11 there's no basis to take those counts away from the jury.

12 And, again, I think this motion is not necessarily the
13 way to address the question about what should be on the verdict
14 sheet. We can come back to that.

15 And I understand that there is an argument about its
16 being a multiple conspiracy, not the one charged in the
17 indictment. Again, crediting the Government's evidence, I
18 think there is a -- one overall conspiracy.

19 People have different roles. There may be different
20 ways in which someone is allowed to sell in the particular
21 territory. Being a member of the -- being a 5200 boy is one of
22 those.

23 There is evidence that if you were not either a
24 5200 boy or a member of MMP, then you would not necessarily be
25 allowed to deal drugs in that particular area.

1 So those are all things for the jury to consider.

2 And as to Mr. Shakeen Davis, I think under
3 Fourth Circuit case law, the evidence of his drug dealing right
4 up to the point of his arrest and being in possession of a gun
5 at the time along with drugs is sufficient to take all of the
6 counts, including the 924(c), to the jury.

7 So the motions are denied.

8 Do we have -- I assume the jury is there patiently
9 waiting, and we need to put in the Government's one exhibit.

10 Do we then have at least some evidence, Ms. Amato, you
11 would be prepared to present?

12 **MS. AMATO:** Your Honor, I'm checking to see. I
13 believe my witness may be on his way this morning, but I do
14 have stipulations possibly -- I have two. I may have a third.

15 **THE COURT:** Okay.

16 **MS. HOFFMAN:** Yeah, we have two --

17 **THE COURT:** Why don't we take a short -- all right,
18 Mr. Trainor?

19 **MR. TRAINOR:** Your Honor, if I may correct something I
20 said in chambers, I previously notified the Government that we
21 may call Kameron Wilson.

22 **THE COURT:** Yes.

23 **MR. TRAINOR:** I said in chambers that I didn't think
24 we'd be calling any witnesses. I received some new information
25 that I have to follow up on. Mr. Wilson may be available, and

1 I'd like to check on that right now or the next break.

2 **THE COURT:** Okay. Why don't we take a short break.

3 Ms. Moyé can thank the jury for holding on patiently, and then
4 we'll go ahead with as much evidence as we can.

5 And in the meantime, I'll check and see whether
6 Ms. Essex has been able to find counsel for Mr. Temple.

7 All right. Let's take a recess.

8 (Recess taken.)

9 **THE COURT:** All right. So I think where we are on the
10 schedule is we will bring the jury in; we'll allow the
11 Government to introduce DEM-5 and officially rest in front of
12 the jury.

13 Nobody is waiving their Rule 29 motions. We don't
14 need to do that again. You've put it on the record. But
15 that's all preserved.

16 And then I understand Ms. Amato has some evidence
17 ready to present?

18 **MS. AMATO:** I do -- oh, I guess I thought that
19 Mr. Bailey was going -- his witnesses were going first.

20 **THE COURT:** I don't know that they're ready.

21 **MS. AMATO:** Oh, okay.

22 **MS. WHALEN:** We are ready on two, possibly three
23 witnesses. We are not ready on Mr. Temple.

24 **THE COURT:** Okay. The ones that you are ready on are?

25 **MS. WHALEN:** Joyce Staples, and I think the Government

1 has an issue with an exhibit on that.

2 **THE COURT:** Right.

3 **MS. WHALEN:** And Special Agent Moore and then
4 Mike McGee, who's an investigator.

5 **THE COURT:** So what I would like to do is to go ahead
6 with evidence where there is no issue, which may include
7 Mr. McGee and Ms. Amato's witnesses.

8 And I don't know if the issue as to Ms. Staples is
9 limited to the one exhibit.

10 **MS. WHALEN:** It is, Your Honor, the
11 Black Blood Brotherhood exhibit.

12 **MS. HOFFMAN:** Well -- and Ms. Whalen wasn't there in
13 chambers this morning, and so it's not her fault. But that's
14 not quite right.

15 I mean, we do -- so Joyce Staples, of course, as we
16 mentioned in chambers, is Dante Bailey's mother.

17 **THE COURT:** And I'm just going to stop. This is
18 exactly what I thought, that it's going to take a little while
19 to figure out Ms. Staples, where we have some other evidence
20 and that poor jury is just sitting there. So let's get on and
21 off as many people as we can.

22 Is Special Agent Moore going to be available, ready to
23 go?

24 **MS. HOFFMAN:** He's available whenever the defense is
25 ready.

1 **THE COURT:** Okay. All right. Maybe we'll start with
2 him.

3 (Jury entered the courtroom at 11:26 a.m.)

4 **THE COURT:** Welcome back, ladies and gentlemen.

5 I hope you had a lovely weekend and are not bothered
6 by the pollen as much as I am. It was quite a good weekend
7 from that point of view.

8 I apologize and appreciate your patience. There are
9 just -- we have been working. There are various issues that
10 come up towards the end of any case.

11 But I do believe the Government has just one more
12 exhibit.

13 **MS. HOFFMAN:** The Government moves into evidence what
14 has previously been marked for identification as
15 Government's Exhibit DEM-5.

16 And I'm going to put it up on the screen.

17 **THE COURT:** And this will be responsive to one of the
18 jurors' questions.

19 **MS. HOFFMAN:** Yes, that's right.

20 Do we have the lectern?

21 **THE CLERK:** Yes.

22 **MS. HOFFMAN:** Oh, it's just not coming up on the
23 screen here. So I can't -- let's see.

24 Page 1 of Government's Exhibit DEM-5.

25 **THE COURT:** And I suppose you can probably see it.

~~McGEE - DIRECT~~

1 But there are photographs of various people with names and what
2 were alleged, according to the evidence, to be nicknames.

3 **MS. HOFFMAN:** And then Page 2 of
4 Government's Exhibit DEM-5.

5 **THE COURT:** And the Government rests?

6 **MS. HOFFMAN:** The Government rests.

7 **THE COURT:** All right. Let me turn to this side of
8 the room.

9 I believe that one or more defendants would like to
10 call . . .

11 **MS. WHALEN:** Yes, Your Honor, I would call
12 Michael McGee. And if I could just . . .

13 MICHAEL MCGEE, DEFENDANT BAILEY'S WITNESS, SWORN.

14 **THE CLERK:** Please be seated.

15 Please speak directly into the microphone.

16 State and spell your full name for the record, please.

17 **THE WITNESS:** Michael McGee, M-I-C-H-A-E-L, M-c-G-E-E.

18 **THE CLERK:** Thank you.

19 DIRECT EXAMINATION

20 **BY MS. WHALEN:**

21 **Q.** Good morning, sir.

22 Could you tell the ladies and gentlemen what type of work
23 you do.

24 **A.** I'm a self-employed private investigator.

25 **Q.** And in your background, were you also a police officer?

~~McGEE - DIRECT~~

1 **A.** I was.

2 **Q.** And for what agency?

3 **A.** Baltimore City.

4 **Q.** And for how long a period of time?

5 **A.** Ten years.

6 **Q.** In your capacity as an investigator, did you watch,
7 actually, a YouTube video called Straight Outta Compton?

8 **A.** I did.

9 **MS. HOFFMAN:** Objection.

10 **THE COURT:** All right. Do you want to come up to the
11 bench.

12 (Bench conference on the record:

13 **MS. HOFFMAN:** Your Honor, I'm kind of operating on the
14 fly here, but I don't know what Mr. McGee is going to be
15 testifying about. And I don't have -- I have not been provided
16 with any exhibits that are going to be used through him. I
17 don't know what this video is. It seems to me it is
18 potentially hearsay. I haven't seen it, and so it's hard for
19 me to know.

20 But I would like a proffer of what exhibits Ms. Whalen
21 intends to introduce through him.

22 **MS. WHALEN:** There's no exhibit with regard to this
23 testimony. No exhibit with regard to this testimony. The only
24 other exhibits are the ones that I've provided you, the Amazon
25 search for urban fiction and the search for Library of Congress

1 for urban fiction.

2 **MS. HOFFMAN:** So he would just be testifying that he
3 ran a search on the computer and that this is what came up?

4 **MS. WHALEN:** Yes.

5 **THE COURT:** And what's the testimony about
6 Straight Outta Compton?

7 **MS. WHALEN:** Straight Outta Compton, Your Honor, is a
8 video, and I'm going to ask him if there is a bus scene on the
9 video. And this relates to testimony by one of the cooperators
10 that my client went onto a bus with a gun.

11 And I'm going to ask him to describe the scene. And
12 it is pretty much exactly as the cooperator testified to.

13 **MS. HOFFMAN:** I just -- I mean --

14 **THE COURT:** Do we have the YouTube video?

15 **MS. WHALEN:** We do not have -- I didn't provide it --
16 we actually had some problems, actually, with creating it in
17 time to give it to the Government. That's why I'm not going to
18 play the video.

19 **MS. HOFFMAN:** And, Your Honor, we haven't seen the
20 video, so we don't know what the scene entails.

21 But I also think -- I mean, if the idea is that
22 Derran Hankins, who testified about an incident with a bus, was
23 lying about what happened, he should have been crossed on this.
24 And I don't really see -- without having had a chance to view
25 it -- Ms. Perry, I'm sorry. Did you want to add something?

~~McGEE - DIRECT~~

1 **MS. WHALEN:** That's what rebuttal is for, Your Honor.
2 If they review it and find that that's not accurate, then they
3 can put an agent up.

4 **THE COURT:** Okay. We are now in the defense part of
5 the case, and obviously the defense has certain obligations to
6 provide its case-in-chief evidence and exhibits in advance.

7 Is this the first time you're telling them that
8 Straight Outta -- there's going to be testimony that's on a
9 YouTube video, Straight Outta Compton?

10 **MS. WHALEN:** I think it is, Your Honor.

11 **THE COURT:** Why don't we go ahead with the other parts
12 of Mr. McGee's testimony, and we will try to see if this can be
13 worked out. Give the Government a chance to look at this
14 YouTube video and have a better understanding of what the
15 testimony would be.

16 **MS. WHALEN:** Okay.

17 **THE COURT:** But go ahead with the other parts.)

18 (Bench conference concluded.)

19 **BY MS. WHALEN:**

20 **Q.** Mr. McGee, we're going to move away from the video for the
21 time being.

22 **A.** Okay.

23 **Q.** Did you -- have you heard of the genre urban fiction?

24 **A.** Yes, I have.

25 **Q.** And were you able to look at an Amazon search for urban

1 fiction?

2 A. Yes, I was.

3 Q. And let me just show you what has been marked as
4 Exhibit 14 (handing).

5 Does this appear to be the Amazon search for urban
6 fiction?

7 A. Yes.

8 Q. Now, you haven't read these books, have you, sir?

9 A. No, I have not.

10 Q. Let me show you the first page.

11 Well, I have to bring it down a little bit.

12 Do you see at the top -- I don't have a monitor, so I
13 apologize. I'm trying to look from afar.

14 African-American urban fiction (indicating)?

15 A. Yes.

16 Q. All right. And several different pages of books that come
17 up; is that correct?

18 A. Yes.

19 Q. And if you look at the bottom of -- this is Page 4 of this
20 exhibit -- do you see where it says like 1, Page 1, 2, 3, and
21 then up to 100?

22 A. Yes.

23 Q. Now, did you also take a look at the Library of Congress
24 and search for the same genre, urban fiction?

25 A. Yes.

1 Q. Showing you what's been marked as Exhibit 15.

2 Do you see at the top left Library of Congress?

3 A. I do.

4 Q. And, again, Results 26 to 50 of 146 (indicating)?

5 A. Yes.

6 Q. And this exhibit, though, and what you actually come up
7 with, it doesn't give you the pictures of the cover; is that
8 correct?

9 A. That's correct.

10 Q. And showing you what's marked as Page 2 -- again, just a
11 snapshot of the Library of Congress search?

12 A. Yes.

13 MS. WHALEN: Thank you, sir. That's all I have at
14 this time.

15 THE COURT: Any cross-examination as to these parts of
16 Mr. McGee's testimony?

17 CROSS-EXAMINATION

18 BY MS. HOFFMAN:

19 Q. Mr. McGee, do you have -- are you deeply familiar with
20 African-American urban fiction?

21 A. In the course of my work, to that extent.

22 Q. To the extent of looking at these searches that have been
23 conducted?

24 A. Well, I've been doing this as a private investigator for
25 eight years. I was previously a city cop for ten, so the

1 extent of my work in Baltimore City.

2 **Q.** Have you read the books that were listed in the search
3 there?

4 **A.** No, I haven't.

5 **MS. HOFFMAN:** I have no further questions.

6 **MS. WHALEN:** Nothing further. Nothing further.

7 **THE COURT:** All right. Subject to possible re-call on
8 the other issue, you are excused for now.

9 Thank you, sir.

10 **THE WITNESS:** Okay.

11 (Witness excused.)

12 **MS. WHALEN:** Special Agent Aanonsen -- no. Excuse me.
13 Special Agent Moore. I apologize.

14 **MS. HOFFMAN:** Your Honor, may we approach?

15 **THE COURT:** All right.

16 (Bench conference on the record:

17 **MS. HOFFMAN:** I believe Ms. Staples is in the
18 courtroom.

19 **MS. WHALEN:** She's right.

20 **THE COURT:** Okay.

21 **MS. WHALEN:** I'll just go ask her to leave.

22 **MS. HOFFMAN:** I didn't see -- has she been in the
23 courtroom for --

24 **MS. WHALEN:** I didn't think she was in here.

25 **THE COURT:** Ask your co-counsel.)

~~MOORE - DIRECT~~

(Bench conference concluded.)

THE CLERK: Agent Moore, you're still under oath.

THE WITNESS: Yes, ma'am.

SPECIAL AGENT TIMOTHY MOORE, DEFENDANT BAILEY'S WITNESS,
PREVIOUSLY SWORN.

DIRECT EXAMINATION

BY MS. WHALEN:

Q. Good morning.

A. Good morning.

Q. Just a few questions.

When investigating this case, do you recall that there was
posted on social media a book that was called The BG Kode and
it had a picture of Dante Bailey?

A. I believe so, yes.

Q. Okay. Did you endeavor or attempt to get that book or
order that book?

A. No, I did not.

Q. All right. I'm going to show you just what's marked for
identification at this point 15?

THE CLERK: 16.

MS. WHALEN: 16. Thank you.

BY MS. WHALEN:

Q. Just take a look, if you would.

(Handing.)

Okay. You've never read it?

1 **A.** No, I have not.

2 **Q.** And it doesn't appear to have the same front or cover as
3 the social media post that was moved into evidence in the case.

4 **A.** I haven't seen that one, but that's -- I've seen that book
5 before, so . . .

6 **Q.** All right. Let me just put it on the monitor for now.

7 And did you see at the top "Entertainment Presents"?

8 **A.** Yes.

9 **Q.** And on the back there is some writing, and I took it away
10 from you a little quickly, but you didn't read that; right?

11 **A.** No.

12 **Q.** All right. I'm going to show it to you in a different
13 format.

14 **MS. WHALEN:** This will be Exhibit 17?

15 **THE CLERK:** Yes.

16 **BY MS. WHALEN:**

17 **Q.** All right. Just a photograph of the book?

18 **A.** Uh-huh.

19 **Q.** I will take a look at the back. It will be Page 2 of
20 Exhibit 17.

21 Now, down at the bottom, do you see [reading]: To order,
22 contact asiaanthony11@yahoo.com?

23 **A.** Yep.

24 **Q.** All right. Can you read the back of this book for us.

25 Do you want me to get it closer?

~~MOORE - DIRECT~~

1 **A.** Yeah, you may have to zoom in just a little bit, please.

2 **Q.** Sure.

3 **A.** Starting at the top?

4 **Q.** Yes, please.

5 **A.** [Reading]: How do you play the game when you are the only
6 one playing by rules? But what if the rules don't even really
7 exist? When the odds are stacked against you, how do you rise
8 above it all?

9 [Reading]: Meet Shy, a young boy turned into a man early
10 on -- I can't make out that -- when something struck in the
11 form of poverty or something appeared in the form of
12 responsibility --

13 **Q.** Agent --

14 **THE COURT:** Do you want to give him the back of the --

15 **MS. WHALEN:** I was going to say --

16 **THE WITNESS:** Yeah. It may be easier to read the
17 screen. It's a little --

18 **BY MS. WHALEN:**

19 **Q.** I'll show you 17 for identification (handing).

20 **A.** Thank you.

21 **MS. HOFFMAN:** Your Honor, I just want to be clear. I
22 believe the book is just for identification. We would object
23 to the book coming into evidence as opposed to
24 Government's Exhibit 17.

25 **THE COURT:** Defense Exhibit 17, but yes. I think the

~~MOORE - DIRECT~~

1 book is only identification.

2 **MS. WHALEN:** That's correct, Your Honor.

3 **THE COURT:** Fine.

4 **THE WITNESS:** All right. I'll pick up with the second
5 paragraph.

6 [Reading]: Meet Shy, a young boy turned into a man
7 early on, when tribulation struck in the form of poverty.
8 Where trial appeared in the form of responsibility, turning a
9 little brother into a son. That little brother morphing into a
10 killer, thus becoming his name. The two together, bonded in
11 the -- bonded at the hip while forced to embrace the frigidness
12 of what comes with the street life of a treacherous city. Will
13 they survive? Or will they succumb to the wickedness of
14 Murdaland Mafia?

15 And then [reading]: Baltimore City. A place where
16 loyalty is a camouflage, used only to manipulate. A place
17 where love is a backbone, when is -- when it is genuine and can
18 keep everything together. What does this hideous city have in
19 store for Shy and Killa? Or can their collective energies be
20 used?

21 **BY MS. WHALEN:**

22 **Q.** All right. Now I'm going to show you what is
23 Government's Exhibit GP-13-A, and this is -- I believe it's
24 Page 3 of the exhibit.

25 Do you see at the top -- can you read [reading]: How do

~~MOORE - DIRECT~~

1 you play a game (indicating)?

2 **A.** Yes.

3 **Q.** Are you able to read it, or is it easier if I just give it
4 to you?

5 **A.** Probably is easier. The screen is a little fuzzy.

6 **Q.** (Handing.)

7 **A.** Thank you. Sorry.

8 Do you want me to just start right at the top?

9 **Q.** Would you read it, yes.

10 **A.** Sure.

11 [Reading]: How do you a play a game when you're the only
12 one playing by the rules?

13 **THE COURT:** A little more slowly.

14 **THE WITNESS:** I'm sorry.

15 [Reading]: How do you play a game when you are the
16 only one playing by rules that don't even really exist? But
17 even when the odds are stacked against you, you still rise
18 above it all.

19 [Reading]: Meet Shy, a young boy turned into a man
20 early on when tribulation struck in the form of poverty. Where
21 trial appeared in the form of responsibility, turning a little
22 brother into a son. That little brother morphing into a
23 killer, this -- that became his name. Then together -- them
24 together, bonded by the hip, were forced to embrace the
25 frigidness of what comes with the street life of a treacherous

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1 city. Will they survive or will they succumb to the treachery?

2 [Reading]: Baltimore City. A place where loyalty is
3 a camouflage only used to manipulate. Where love is the
4 backbone that, when it is genuine, can keep everything
5 together. Will this hideous city break Shy? Will it destroy
6 Killa? Or will their collective energy, Killa as the shooter,
7 backing Shy's own personal gun game, push Shy to be the next
8 B'more Bad Guy?

9 [Reading]: Take a walk with them through it all --
10 the envy, the hate, and the deceit. Feel the love between a
11 family built, but recognize that the loyalty is what mattered
12 the most, because it was forever to notice the fight to the
13 top. And when all else fails -- there's something I can't
14 read -- and then My All Family I Am.

15 And it's a little, small writing.

16 And then [reading]: Take a look if you have the
17 heart. But if you fear death . . .

18 Something's crossed out, and it says [reading]:
19 Welcome to Murdaland. Meet the mafia.

20 **BY MS. WHALEN:**

21 **Q.** Okay. Thank you.

22 And do you recall that that was found in Dante Bailey's
23 jail cell?

24 **A.** Yes.

25 **Q.** Now, I'm going to show you -- this will be Exhibit 17 --

~~MOORE - DIRECT~~

1 **THE CLERK:** 18.

2 **MS. WHALEN:** Oh, gosh. 18. Thank you.

3 **THE CLERK:** You're welcome.

4 **BY MS. WHALEN:**

5 **Q.** And you all obtained, of course, Dante the Great One
6 Facebook records; right?

7 **A.** Yes.

8 **Q.** All right. I'm going to show you what's Page 342.

9 All right. Can you read that?

10 **A.** Yep.

11 **Q.** Okay. And do you see the comment down here, 4/17/2013?

12 **A.** Yes.

13 **Q.** And if you'd read that for us.

14 **A.** It says [reading]: EMMS, with an exclamation point, and
15 what it do, baby?

16 **Q.** And then below it.

17 **A.** Oh, everything good. The book is out.

18 **Q.** Now, let me turn your attention to Dominick Wedlock. He
19 was an individual charged in this case; is that correct?

20 **A.** Yes.

21 **Q.** All right. And he is someone who has a conviction for
22 false statement to police; is that right?

23 **A.** That's correct.

24 **Q.** Now, there came a point in February of 2017, I believe,
25 when you and others were able to meet with Jamal Smith.

1 Do you recall that?

2 A. Yes.

3 Q. And you asked or talked about the Edwards murder; is that
4 correct?

5 A. Yes.

6 Q. Among other things; right?

7 A. Yes.

8 Q. Okay. And Mr. Smith said he was with Bangout a day or two
9 before Edwards was killed.

10 Do you remember that?

11 A. That's what he told us, yes.

12 Q. And do you remember that Mr. Smith recalled that Edwards
13 had called him on the day of his murder?

14 A. I believe so, yes.

15 Q. And do you remember Mr. Smith said that he stayed at
16 Edwards' house a few days before Edwards' murder?

17 A. That's what he told us, yes.

18 Q. And also that he'd been in the studio on 28th Street with
19 Edwards on occasion.

20 Do you recall that?

21 A. Yes.

22 Q. And in the days leading up to his murder?

23 A. Correct.

24 Q. And do you recall, finally, that Mr. Smith told you that
25 Mr. Edwards -- well, he learned of Mr. Edwards' death through

~~MOORE - CROSS~~

1 E-Money?

2 **A.** Yes. That's what he told us that day.

3 **Q.** All right. He did not say that he dropped Mr. Edwards off
4 around the way and last saw him getting into a car with a girl.

5 **A.** He did not tell us that, no.

6 **Q.** And he did not say that he dropped Mr. Edwards off to
7 Gutta somewhere in the area of Frederick Road; right?

8 **A.** He didn't tell us that, no.

9 **MS. WHALEN:** Thank you very much, Special Agent.

10 **THE COURT:** Anyone else have questions for
11 Special Agent Moore?

12 **MS. AMATO:** I do.

13 **THE COURT:** Ms. Amato.

14 CROSS-EXAMINATION

15 **BY MS. AMATO:**

16 **Q.** Good morning.

17 **A.** Good morning, ma'am.

18 **Q.** Agent Moore, you remember, of course, meeting with
19 Mr. William Banks and interviewing Mr. William Banks on a
20 couple of occasions?

21 **A.** Yes, ma'am.

22 **Q.** All right. And on September 12th of 2016, when you met
23 with Mr. Banks, Mr. Banks was asked about Mr. Anderson;
24 correct?

25 **A.** Among probably many other people, yes.

1 Q. Okay. Right. Among many other people.

2 And at that time Mr. Banks had stated that he believed
3 that Anderson had a stash house on Bowers and Norwood; correct?

4 A. I'd have to see the report.

5 Q. Certainly. Okay. And I'll just mark this as -- for
6 identification as defense exhibit -- well, I'll mark it as
7 defense exhibit?

8 THE CLERK: 14.

9 MS. AMATO: 14. Okay.

10 (Counsel conferred.)

11 BY MS. AMATO:

12 Q. (Hanging.)

13 All right. I'd like to show you what I've marked as
14 Defense Exhibit No. 14. And, first of all, if you can just
15 take a look at this report, see if you recognize it.

16 A. Sure.

17 Q. Is that a report that you prepared?

18 A. Yes, ma'am.

19 Q. Okay. In fact, it has your name on it, correct --

20 A. Correct.

21 Q. -- as having been prepared by you?

22 A. Uh-huh.

23 Q. All right. And I'll show you specifically -- all right.
24 The location (indicating).

25 A. Sure. I wrote that [reading]: Banks stated that Anderson

~~MOORE - CROSS~~

1 lived out in Owings Mills and had a business on Wabash Avenue.
2 Furthermore, he believed Anderson had a stash house on Bowers
3 and Norwood.

4 Q. And, of course, preparing the reports is done regularly;
5 correct?

6 A. Correct.

7 Q. And it's important to prepare reports accurately; correct?

8 A. Correct.

9 Q. As -- in terms of what a witness says to you, you then
10 want to make sure that you have a record of what that witness
11 said to you so that later down the road, if there's any
12 questions, you can refer to your report; correct?

13 A. Correct.

14 Q. All right. And at no time, then, when Mr. Banks had
15 spoken to you and had given you the address of Bowers and
16 Norwood did he say anything about that pertaining to the
17 Gwynn Oak group?

18 A. Say that again.

19 Q. Okay. So when he provided you the address of Bowers and
20 Norwood, it was specific as to where he believed the Anderson
21 stash house was; correct?

22 A. No. I -- that report is actually my -- I made the mistake
23 in that report. That's an incorrect statement attribute -- the
24 one you just had me read. The portion about the Bowers and
25 Norwood was not attributable to Mr. Anderson. That was for

~~MOORE - CROSS~~

1 Mr. Banks. And I just -- I wrote the wrong name in the report.

2 Q. Okay. So you're saying that this report that you prepared
3 pertaining to the September 12th, 2016 interview with Mr. Banks
4 has incorrect information it?

5 A. Yes. I made a mistake.

6 Q. I see.

7 And did you ever correct the report?

8 A. No, I did not.

9 Q. Okay. So you've never actually came -- went back to the
10 report to correct it in any form or fashion?

11 A. The -- what you're telling me right now is the first time
12 I've noticed that mistake.

13 MS. AMATO: Okay. All right. I have no further
14 questions, Your Honor.

15 THE COURT: Okay. Any other questions for
16 Special Agent Moore?

17 (No response.)

18 THE COURT: Does the Government have any questions?

19 MS. HOFFMAN: I do.

20 CROSS-EXAMINATION

21 BY MS. HOFFMAN:

22 Q. Agent Moore, Ms. Whalen showed you this book, The BG Kode.
23 Do you remember that?

24 A. Yes.

25 Q. And do you see how "Kode" is spelled with a K instead of a

~~MOORE - CROSS~~

1 C?

2 A. Yes.

3 Q. Are you familiar with the Bloods gang?

4 A. Yes, I am.

5 Q. Are you familiar with rivalry between the Bloods gang and
6 the Crips gang?

7 A. I am.

8 Q. And do you know whether members of the Bloods gang like to
9 use the letter C?

10 A. They don't. And, in fact, they will replace it with other
11 letters.

12 Q. Ms. Whalen also asked you a question about -- there's a
13 reference to Asia Anthony on the back of the book here.

14 A. Yes.

15 Q. Are you familiar with an Asia Anthony?

16 A. I am.

17 Q. Did she come up in the course of your investigation?

18 A. She did.

19 Q. Did she have a relationship with Mr. Bailey?

20 A. She did.

21 Q. Was she a girlfriend of his at one point?

22 A. We believe so, yes.

23 Q. Are you aware of a search warrant that was executed on a
24 residence shared by the two of them?

25 MS. WHALEN: Objection, Your Honor.

~~MOORE - CROSS~~

1 **THE COURT:** Come up to the bench.

2 (Bench conference on the record:

3 **MS. WHALEN:** I don't see any relevance to a
4 search warrant at Asia Anthony's house.

5 **THE COURT:** Where is that going?

6 **MS. HOFFMAN:** I think she has been presented as
7 someone who's simply helping him with his artistic endeavors.
8 There was a search warrant executed on a shared residence
9 belonging to them in which numerous guns were recovered. I
10 think she -- there is evidence that she's actually part of the
11 conspiracy or was part of the conspiracy.

12 **THE COURT:** But none of that has come in so far?

13 **MS. WHALEN:** No.

14 **MS. HOFFMAN:** No.

15 **THE COURT:** I think you are fine up to the "she's a
16 girlfriend/there's a relationship" part.

17 **MS. HOFFMAN:** Okay.

18 **THE COURT:** But you should not go into the
19 search warrant.

20 **MS. HOFFMAN:** Okay.

21 **MS. WHALEN:** Thank you.)

22 (Bench conference concluded.)

23 **THE COURT:** You're going to move on.

24 **BY MS. HOFFMAN:**

25 **Q.** Agent Moore, during the course of this investigation, you

~~MOORE - CROSS~~

1 recovered quite a lot of writings by Dante Bailey; is that
2 right?

3 A. That's correct.

4 Q. And not all of them were gang-related?

5 A. No.

6 Q. Were some of them gang-related?

7 A. Yes.

8 Q. Sometimes Dante Bailey wrote letters to his mom?

9 A. Correct.

10 Q. Sometimes he exercised creative expression?

11 A. Yes.

12 Q. Are you aware that sometimes fiction draws from real life?

13 A. Yes.

14 Q. Are you familiar with the phrase "art imitates life"?

15 A. Yes, ma'am.

16 Q. You were asked about a February 2017 meeting with
17 Jamal Smith.

18 Do you remember that?

19 A. Yes.

20 Q. Now, when you met with Mr. Smith, he had been arrested
21 already in the case; is that right?

22 A. That's correct.

23 Q. And you were asked about what he told you about Bangout.

24 Do you recall that?

25 A. Yes.

~~MOORE - CROSS~~

1 Q. And is it ever your experience as an investigator that
2 subjects of the investigation, when arrested, will not be
3 completely forthcoming?

4 A. That's correct, yes.

5 Q. And was it your belief in this case that --

6 THE COURT: Could you all come up to the bench.

7 (Bench conference on the record:

8 THE COURT: It sounds like you are about to elicit his
9 opinion of Mr. Smith's truthfulness, and that's not an
10 appropriate question.

11 So, yes, I think limited to the facts of what he did
12 or did not say.

13 MS. HOFFMAN: You're right. I apologize.

14 THE COURT: That's it.

15 MS. HOFFMAN: Okay.

16 THE COURT: Okay.)

17 (Bench conference concluded.)

18 BY MS. HOFFMAN:

19 Q. Agent Moore, you testified that you typically write
20 reports of your proffer sessions; is that right?

21 A. Yes.

22 Q. And sometimes those proffer sessions are quite lengthy; is
23 that right?

24 A. Correct.

25 Q. Sometimes hours long?

~~MOORE - CROSS~~

1 **A.** Yes.

2 **Q.** And they're not recorded?

3 **A.** No.

4 **Q.** And you write down what you remember to the best of your
5 ability; is that right?

6 **A.** Correct.

7 **Q.** Is it sometimes possible that you make mistakes?

8 **A.** Yes.

9 **MS. HOFFMAN:** Thank you.

10 I have no further questions.

11 **THE COURT:** Anything else?

12 **MS. WHALEN:** Court's indulgence.

13 **THE COURT:** Yes.

14 **MS. WHALEN:** Thank you.

15 No further questions.

16 **THE COURT:** Okay. Thank you, sir. You are excused.

17 (Witness excused.)

18 **THE COURT:** We're not necessarily going in perfect
19 order.

20 But I believe, Ms. Amato, you might --

21 **MS. AMATO:** I have a witness, yes, Your Honor.

22 **THE COURT:** You have a witness. All right.

23 **MS. AMATO:** Your Honor, if I can just go and bring the
24 witness in.

25 **THE COURT:** Sure.

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MS. AMATO: Thank you.

THE COURT: You may.

You're calling?

MS. AMATO: Calling Mr. Bobby Lee Davis.

If you can take a seat here.

THE CLERK: Please raise your right hand.

BOBBY LEE DAVIS, DEFENDANT ANDERSON'S WITNESS, SWORN.

THE CLERK: Please be seated.

Please speak directly into the microphone.

State and spell your full name for the record, please.

THE WITNESS: My name is Bobby Lee Davis, B-O-B-B-Y,

L-E-E, D-A-V-I-S.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. AMATO:

Q. Good afternoon, Mr. Davis.

A. Hi.

Q. Mr. Davis, are you originally from the Maryland area?

A. I was born in North Carolina. I moved here when I was 12.

Been here since.

Q. All right. And are you currently working?

A. I'm retired.

Q. What are you retired from?

A. Bethlehem Steel. Worked there for 36 years.

Q. And what did you do for them?

~~DAVIS - DIRECT~~

1 **A.** I was a first-class welder.

2 **Q.** All right. Mr. Davis, I am going to show you what's
3 already been marked as Defense Exhibit 13.

4 **MS. AMATO:** I'm using the HDMI. Is it on?

5 Okay. Is it on? I'm not sure.

6 **THE CLERK:** Yes.

7 **MS. AMATO:** Okay. Okay. Thank you.

8 **BY MS. AMATO:**

9 **Q.** All right. Mr. Davis, I'd like you to take a look and
10 see -- look at Defense Exhibit No. 13. Do you recognize who is
11 in this video?

12 **A.** Yes.

13 **Q.** Okay. Who is this?

14 **A.** Corloyd.

15 **Q.** Sorry?

16 **A.** Corloyd.

17 **Q.** Okay.

18 (Video played.)

19 **MS. WHALEN:** The sound isn't on, but that's okay.

20 **BY MS. AMATO:**

21 **Q.** And can you identify who this is.

22 **A.** That's me.

23 **Q.** Okay. And do you see a third person in the back?

24 Whoops. I'm having -- did you see the third person? I'll
25 go back.

~~DAVIS - DIRECT~~

1 A. Take it back, please.

2 Q. Certainly.

3 A. That's Sylvester.

4 Q. Okay. All right. So can you tell us where you were.

5 A. We were in Vegas, bowling trip.

6 Q. A bowling trip.

7 A. Yes.

8 Q. Okay.

9 A. True Amateur.

10 Q. What was it called?

11 A. True Amateur.

12 Q. True Amateur?

13 A. Yes.

14 Q. All right. So how -- let me just take this out -- so who
15 was with you on this bowling trip?

16 A. It was ten of us. It was a group. We go there every
17 year. We been going there now for about 15 years.

18 Q. Okay. So when you say there were ten of you, so it was
19 yourself; it was Mr. Corloyd Anderson; it was Mr. -- it was
20 Sylvester and then other individuals?

21 A. Yes.

22 Q. Okay. And how does one become a part of this group?

23 A. We -- we recruit -- or I recruit bowlers and, you know,
24 see if they want to go to Vegas and bowl. It's like -- it used
25 to be \$50,000. Now it's only \$20,000. We had a friend

~~DAVIS - DIRECT~~

1 recently to win it, so, you know . . .

2 Q. So when you say \$50,000, you mean the pot of winnings?

3 A. Yeah, yeah. You could have won \$50,000, yes.

4 Q. And when you went on this trip, do you remember this
5 specific trip, how long ago that was?

6 A. It was about five years, I think, about five years,
7 something like that. It's a long time.

8 Q. And what time of year was the bowling tournament?

9 A. February. It's always in February.

10 Q. Always in February?

11 A. Uh-huh.

12 Q. Okay. And so on this particular trip, when there are ten
13 of you, did you all share rooms together? What was the setup
14 usually with your --

15 A. It was two to a room.

16 Q. Okay. And where did you all stay?

17 A. We stayed at The Orleans.

18 Q. Okay. And why did you stay -- why did you all stay at the
19 Orleans?

20 A. Because we had comps there. We stayed like eight days.
21 At the end we would only end up paying like \$150. And some of
22 us would only end up paying \$69 because of comps.

23 Q. For the whole trip?

24 A. Yes.

25 Q. The whole hotel?

~~DAVIS - DIRECT~~

1 **A.** Yes.

2 **Q.** Okay. All right. Now -- and you said you would recruit.
3 What -- how were you in a position to recruit people? Did you
4 do something else?

5 **A.** Oh, because I -- I ran a pro shop.

6 **Q.** A pro --

7 **A.** Pro shop, yes.

8 **Q.** Pro shop.

9 **A.** Sold bowling balls. Initially, you know, I was a ball
10 driller up to -- I did that for 17 years until recently I --

11 **Q.** Let me just stop you here.

12 You say a pro shop. What is that? What is a pro shop?

13 **A.** Sell bowling balls, shoes, attire, shirts, jackets, stuff
14 like that.

15 **Q.** All pertaining to bowling?

16 **A.** Yes.

17 **Q.** And was that connected to any bowling alley?

18 **A.** Yes. Woodlawn, AMF Woodlawn. I was located in there.

19 **Q.** All right. How did you meet Mr. Anderson?

20 **A.** I met him in the bowling -- in the bowling center. He
21 came in to -- to buy a ball and I knew his cousin, you know,
22 so -- and then he -- the cousin introduced me to him, and we
23 became very good friends.

24 **Q.** Okay. And how long have you known Mr. Anderson through
25 your bowling?

~~DAVIS - DIRECT~~

1 **A.** Been over 15 years.

2 **Q.** And -- now, in this vehicle we see you in a rather nice,
3 expensive vehicle.

4 Can you tell me about the story behind this vehicle.

5 **A.** The story behind the vehicle was the gentleman sitting in
6 the back --

7 **Q.** Sylvester?

8 **A.** Yeah, Sylvester, he came into the pro shop, you know, one
9 day. And then, you know, Corloyd and a couple of other, you
10 know, the people that, you know, bowled was in there. And they
11 said, man, you know, said we should, you know, get some car --
12 because the year before that, the guy that won --

13 **Q.** Let me ask you this: Whose idea was it to rent a Bentley
14 when you went out to Vegas?

15 **A.** Oh, Sylvester's.

16 **Q.** Okay. And Sylvester is the one that we identified in the
17 back of the vehicle?

18 **A.** Yes.

19 **Q.** Okay. All right. Was this a usual thing when you all
20 went out to Vegas, that you would rent Bentleys?

21 **A.** No, no. We generally dealt with Payless or the car rental
22 place inside the hotel.

23 **Q.** And so was this, then, just a one-time --

24 **A.** That was a one-time thing, yes.

25 **Q.** Okay. All right. Now, in the video, also, we see

~~DAVIS - DIRECT~~

1 Mr. Anderson with what appears to be something around his neck.

2 A. What you talking about, the fake chain?

3 Q. The fake chain?

4 A. Yeah. It wasn't real.

5 Q. It wasn't real. Okay.

6 A. No.

7 Q. Did you ever touch it? Did you ever hold it?

8 A. Yes, I touched it in the pro shop because, you know . . .

9 Q. What did the touch feel like?

10 A. It wasn't real; I can tell you that.

11 Q. Okay. All right. Now, let me ask you this: When was the

12 last time that you actually saw Mr. Anderson?

13 A. It's right before he got locked up. I saw him outside of

14 his business on Wabash.

15 Q. And -- all right.

16 Now, did you all win when you went out on that -- on this

17 particular trip?

18 A. Oh, yeah. Quite a few of us, you know, won money. Like I

19 said, we had one that, you know, won the tournament itself.

20 Q. I'm sorry. Say that again.

21 A. We had one bowler in the group that won the tournament,

22 yes.

23 Q. Okay. Excellent.

24 A. Yes.

25 Q. Now, before today, have we ever met in person?

~~DAVIS - CROSS~~

A. No.

Q. How many times over the telephone did we speak about this case?

A. About once.

MS. AMATO: All right. I have no further questions at this point.

THE COURT: Thank you very much.

Any questions?

MS. PERRY: Briefly, Your Honor. Thank you.

CROSS-EXAMINATION

BY MS. PERRY:

Q. Good afternoon, Mr. Davis.

A. Good afternoon. How are you doing?

Q. I'm all right.

A. Good.

Q. You told us that you've known Corloyd for a number of years. You became very good friends; right?

A. Yes.

Q. And you know he goes by Bo; right?

A. Yes.

Q. And you know him from the bowling alley; right?

A. Yes.

Q. That's where you would hang out with him?

A. Yes. He was in -- he was in my league. I had a league.

I had the biggest league out there at Woodlawn at one time.

~~DAVIS - CROSS~~

1 And after -- you know, after the league, you know, we used to
2 have drinks and stuff like that.

3 Q. But you don't know what he did when he wasn't at the
4 bowling alley; right?

5 A. No.

6 Q. You weren't around him on a daily basis?

7 A. No, I wasn't.

8 Q. You don't know how he made his money; right?

9 A. I know that he had a car wash business, you know,
10 detailing. You know, you could go there and, you know, get an
11 oil change, stuff like that. I knew that.

12 Q. Did you get your oil changed there?

13 A. Say what?

14 Q. Did you get your oil changed there?

15 A. No. I change my own.

16 Q. Did you get your car washed there?

17 A. I wash my own car -- truck. I have a truck.

18 Q. So you knew Mr. Anderson to have a car wash, but you
19 didn't actually ever go there; right?

20 A. Yeah. I went there one time they had open house. He had
21 open house. He had -- he had two, so I went there for the open
22 house for the one on Wabash.

23 Q. A car wash is a cash business; right?

24 A. Huh?

25 Q. A car wash is a cash business?

~~DAVIS - CROSS~~

1 **A.** Yes.

2 **MS. AMATO:** Objection; speculation, lack of knowledge.

3 **THE COURT:** Sustained. Sustained.

4 **BY MS. PERRY:**

5 **Q.** Mr. Davis, you went to -- you said you went to Vegas with
6 Bo and a number of other people and that this was about five
7 years ago. That was with the video we saw with the Bentley; is
8 that right?

9 **A.** Yeah, I think that was about five years ago.

10 **Q.** And you each paid your own way to fly out there?

11 **A.** Yes.

12 **Q.** And you each paid your own -- you said you split rooms,
13 but you all paid for your own rooms?

14 **A.** Yes.

15 **Q.** You all paid your own portion of the rooms?

16 **A.** Yes.

17 **Q.** And then someone rented a Bentley while you were there?

18 **A.** Yes.

19 **Q.** And you guys went out while you were there, paid for that?

20 **A.** Yes, we did go out on the town, yes.

21 **Q.** And you said you've -- I believe I already asked you this,
22 but you said you've known Bo for a number of years, about 15
23 years?

24 **A.** Yes.

25 **MS. PERRY:** Court's indulgence.

~~DAVIS - REDIRECT~~

1 Thanks.

2 I have no further questions.

3 **THE COURT:** Anything else?

4 **MS. AMATO:** Very briefly.

5 REDIRECT EXAMINATION

6 **BY MS. AMATO:**

7 **Q.** So, again, you said you all stayed at The Orleans Hotel;
8 is that correct?

9 **A.** Yes. That's where we stay at. We stay -- we've stayed
10 there for the last, I'm going to say about the last ten years
11 or nine years.

12 **Q.** And how much was the full amount of the hotel because of
13 the comps for the whole trip?

14 **A.** Oh, you mean what -- what would it have cost us?

15 **Q.** No, no, no. What did you all pay because of the comps and
16 everything else? What did you end up paying for the hotel?

17 **A.** Oh, me, myself, I shared the room with Sly. We ended up
18 paying like, you know, 60, 69 dollars, because we had comps.
19 He had comps. I had comps.

20 **Q.** Okay. And --

21 **A.** And that's the way we did it. We shared.

22 **Q.** Is that why everybody else also selected that hotel to
23 stay at, for the comps?

24 **A.** Yeah; because we all played there. Because the tournament
25 was actually there inside the hotel. So we, you know, didn't

~~DAVIS - REDIRECT~~

1 have to leave the hotel for, you know, too many things.

2 **Q.** All right. And then the Bentley, did the whole group, the
3 whole ten of you pay in to rent the Bentley?

4 **A.** No. It was just four of us.

5 **Q.** Four of you?

6 **A.** Yes.

7 **MS. AMATO:** Okay. All right.

8 Thank you.

9 **THE COURT:** All right. Thank you very much,
10 Mr. Davis.

11 You are excused. Thank you.

12 **THE WITNESS:** Oh, thank you.

13 (Witness excused.)

14 **MS. AMATO:** Your Honor, I also have some stipulations.

15 And I will be using the -- no longer the HDMI at this
16 point.

17 All right. So the first stipulation, which will be
18 Defense Exhibit --

19 **THE CLERK:** 15.

20 **MS. AMATO:** -- 15, and I will read this to the jury.

21 [Reading]: It is agreed and stipulated by the parties
22 that the certified records of regularly conducted business
23 activity of Maryland Live! Casino report -- Casino reports
24 Corloyd Anderson won \$8,100 on September 25th of 2016. The
25 records also report Mr. Anderson won \$70,000 on December 13th

1 of 2013 and that he won 1,420, which is transaction 1715, and
2 1,420, transaction 1716, on August 30th, 2013.

3 Another stipulation which will be Defense Exhibit 16
4 [reading]: It is agreed and stipulated by the parties that on
5 September 27th, 2016, law enforcement executed a search warrant
6 at We Cater to You Motors. The attached photographs were taken
7 by law enforcement during the search of the business.

8 And I will present the photographs.

9 (Photographs displayed.)

10 One more stipulation.

11 **THE COURT:** All right.

12 **MS. AMATO:** Defense --

13 **THE COURT:** And were those -- the photographs were
14 part of 16 or --

15 **MS. AMATO:** Yes, they were all part of 16. Correct.

16 And then as part of 17 -- I'll read 17, but there are
17 many documents that are part of 17. I won't go through all of
18 them at this point.

19 **THE COURT:** Okay.

20 **MS. AMATO:** But they will obviously be in evidence as
21 part of the stipulation.

22 **THE COURT:** All right.

23 **MS. AMATO:** So Defense Exhibit 17, the stipulation
24 [reading]: It is agreed and stipulated by the parties that on
25 September 27th, 2016, law enforcement executed a search warrant

1 at We Cater to You Motors. The attached documents are true
2 copies of documents seized from the business.

3 And, again, I will not go through all of them, but I
4 will just show a sampling.

5 (Displaying documents.)

6 **MS. AMATO:** Thank you, Your Honor.

7 **THE COURT:** Okay. All right. Thank you.

8 Can I see counsel at the bench for just a minute on
9 the schedule.

10 (Bench conference on the record:

11 **THE COURT:** I'm just checking if there's any other
12 witness available at this time as to whom there's not an issue.

13 We have Mrs. Staples that we need to talk about and
14 the rest of Mr. McGee and Mr. Temple.

15 And I know, Mr. Hazlehurst, your witness is --

16 **MR. HAZLEHURST:** It should be ten minutes, if that,
17 tomorrow morning.

18 **THE COURT:** Tomorrow morning.

19 Anything else at this point? I'll take a recess and
20 perhaps we can talk about Ms. Staples.)

21 (Bench conference concluded.)

22 **THE COURT:** All right. Ladies and gentlemen, I need
23 to talk with counsel for a few moments. We're going to take a
24 recess.

25 Thank you very much.

1 (Jury left the courtroom at 12:20 p.m.)

2 **THE COURT:** All right. If we can see where we are on
3 Ms. Staples.

4 There's a number of exhibits. I don't know if there
5 are objections to more than one.

6 **MS. WHALEN:** There's just one exhibit, Your Honor, and
7 I can pass it up to you, if you'd like. It's called
8 Black Blood Brotherhood.

9 **THE COURT:** Oh, you're not offering any other exhibits
10 through Ms. Staples?

11 **MS. WHALEN:** No.

12 **THE COURT:** Okay.

13 **MS. WHALEN:** Would you like a copy?

14 **THE COURT:** Sure. You can pass it up and give me a
15 proffer of what would make it admissible.

16 **MS. WHALEN:** (Handing.)

17 The proffer of the testimony is that she typed up this
18 exhibit on her computer and that she then sent the exhibit out
19 to various locations, and that was at the request of her son.

20 And those various locations include law enforcement
21 agencies.

22 The exhibit itself I think directly contradicts
23 testimony in the case that this entity was designed and created
24 as kind of a hitman entity.

25 And I think the exhibit indicates that instead of

1 that, it was designed as an entity that would help young
2 people, number one, and would help young African-Americans stop
3 killing each other. That's sort of the content.

4 I wasn't there, but I think that there was an
5 objection based on hearsay for the exhibit itself.

6 **THE COURT:** Right. I think that was the objection.

7 Ms. Hoffman.

8 **MS. HOFFMAN:** Yes. And I think the entirety of what
9 Ms. Whalen has just proffered that Ms. Staples would say is, in
10 fact, hearsay.

11 Evidently, according to Ms. Staples, she -- she typed
12 up this document on Dante Bailey's behalf. It's signed by him,
13 Almighty, Dante Bailey.

14 It, of course, characterizes the
15 Black Blood Brotherhood in a completely different light than
16 what the evidence in this case has showed. And it appears to
17 be nothing more than a false exculpatory statement that he had
18 his mom type up for him and send to law enforcement officers on
19 his behalf.

20 I'm not aware of any hearsay exception that this would
21 fit into. Certainly if Mr. Bailey wants to testify about what
22 he believed the Black Blood Brotherhood was and what its
23 purpose was, he has every right to do that.

24 But I don't think he can use his mother as a vehicle
25 to put in his own characterizations of what this organization

1 was.

2 **THE COURT:** Ms. Whalen.

3 **MS. WHALEN:** Your Honor, I think she can testify --
4 regardless of whether the exhibit comes in, she can testify of
5 the fact of typing up Black Blood Brotherhood and sending it
6 out to law enforcement agencies.

7 I have been mulling over any exception to the Hearsay
8 Rule, and I am candidly saying that I don't see one right now.
9 But I do think the fact of her actions and those specific
10 actions I think are admissible.

11 **THE COURT:** I guess the problem comes how -- with the
12 jury not knowing what's in the document, how is it relevant
13 that it was sent to law enforcement?

14 **MS. WHALEN:** Because my client would not be sending to
15 law enforcement something that says: Black Blood Brotherhood
16 is a hit squad.

17 And so I think the fact of her typing it up at his
18 behest and sending it to Black Blood Brotherhood -- excuse me,
19 sending it to law enforcement, the inference is that it was not
20 something that was in any way as the Government has portrayed
21 this group.

22 **THE COURT:** Okay.

23 **MS. HOFFMAN:** And, I mean, I think actually what
24 Ms. Whalen -- the point that she just made is the point that I
25 was going to make. Of course, Mr. Bailey would not

1 characterize the Black Blood Brotherhood as a hit squad when
2 sending this to law enforcement. It is a false exculpatory to
3 law enforcement.

4 And whether the exhibit itself comes into evidence or
5 not, Ms. Staples' testimony about how it was portrayed to
6 law enforcement on behalf of her son is still hearsay.

7 **THE COURT:** Well, I'm gathering that she's not going
8 to testify about the content of the document, simply that she
9 sent a document labeled "Black Blood Brotherhood" which
10 Mr. Bailey had prepared.

11 **MS. WHALEN:** That she typed it up. He had prepared
12 it, she typed it up and sent it out at his behest.

13 **THE COURT:** Okay.

14 **MS. WHALEN:** And the date I would be bringing up, too.

15 **THE COURT:** I mean, it's some circumstantial evidence.

16 **MS. HOFFMAN:** I really don't understand the relevance.
17 I mean, if the content is not coming in, then what's the
18 relevance of her sending something about
19 Black Blood Brotherhood to law enforcement? And, I mean, the
20 very fact that she's sending something to law enforcement that
21 her son has told her to write at his behest I think makes it --
22 makes it -- I mean, it's essentially still putting in a false
23 exculpatory of her son through her.

24 And I don't see why -- I mean, the fact that it was
25 sent to law enforcement makes it even less likely to be

1 truthful. He's trying to characterize it in a different way.

2 **THE COURT:** Which would seem to be a matter of
3 argument.

4 I think it's somewhat limited relevance. But as long
5 as she's -- you're not offering the contents of the document
6 and she doesn't offer testimony about what's in it or why he
7 wanted it sent anywhere, it's --

8 **MS. WHALEN:** I won't elicit that.

9 **THE COURT:** It's very limited.

10 **MS. WHALEN:** Yes.

11 **MS. HOFFMAN:** And I guess I would also, as I pointed
12 out in chambers this morning, Ms. Staples has lived -- we
13 believe she's lived in Georgia since somewhere around the year
14 2000. We don't believe she has any personal knowledge about
15 the facts of this case.

16 And so we would object to any -- any questioning of
17 her about anything that she was told by Dante Bailey or any of
18 the co-conspirators in the case. That would be hearsay, and we
19 would object to any of that coming in.

20 **THE COURT:** I'm understanding that that's not the
21 point of the testimony?

22 **MS. WHALEN:** No.

23 **THE COURT:** But if you hear anything like that, you
24 can certainly object.

25 All right. That will resolve Ms. Staples.

1 Let's see. As far as Mr. McGee, I think what we just
2 have to do is perhaps over the recess -- I don't know. Do you
3 have access to this YouTube that you can --

4 **MS. WHALEN:** I think it's been sent via e-mail.

5 **MS. HOFFMAN:** Mr. Enzinna sent me a link, and we can
6 watch it over the lunch break.

7 **THE COURT:** Okay. Okay. All right. Well, if you
8 want to get Ms. Staples on and off.

9 **MS. WHALEN:** I'm sorry?

10 **THE COURT:** I'm sorry. I guess I'm thinking out loud
11 here, but we could go ahead and bring the jury back long enough
12 to get Ms. Staples' testimony in --

13 **MS. WHALEN:** Sure.

14 **THE COURT:** -- and then take an early recess. And
15 we'll try to see where things stand with Mr. Temple, and you
16 can watch the video over lunch.

17 Any other evidence or testimony expected at this
18 moment? Obviously, we have to put advice of rights on the
19 record, but anything else at this time?

20 **MS. WHALEN:** No.

21 **THE COURT:** No. Okay.

22 All right. Let's bring the jury back in.

23 (Jury entered the courtroom at 12:31 p.m.)

24 **THE COURT:** All right. Ms. Whalen.

25 **MS. WHALEN:** Thank you, Your Honor.

~~STAPLES - DIRECT~~

Joyce Staples, please.

THE CLERK: Please raise your right hand.

JOYCE STAPLES, DEFENDANT BAILEY'S WITNESS, SWORN.

THE CLERK: Please be seated.

Please speak directly into the microphone.

State and spell your full name for the record, please.

THE WITNESS: Joyce Staples, J-O-Y-C-E, S-T-A-P-L-E-S.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. WHALEN:

Q. Good afternoon, Ms. Staples.

Where do you currently live?

A. In Lawrenceville, Georgia.

Q. And for how long have you lived in Georgia?

A. Since 1998 -- '97.

Q. '97. And are you the mother of Dante Bailey?

A. Yes, I am.

Q. Could you tell us, did you originally live in the

Baltimore City area?

A. Yes, I did.

Q. Was that in the Forest Park-Gwynn Oak area?

A. Yes.

Q. All right. And at that time did Dante live with you as well?

A. Yes, he did.

~~STAPLES - DIRECT~~

1 Q. And are there other children that you have?

2 A. Yes, I do.

3 Q. Can you tell us who.

4 A. His name is Malik.

5 Q. All right.

6 A. And right now he's at Louisville College.

7 Q. Does he play football?

8 A. Yes, he does.

9 Q. All right. Now, I'm going to direct your attention to
10 2015. Do you recall sort of the riots in the city after the
11 incident with Freddie Gray?

12 A. Yes.

13 Q. And sometime after that, did you type up a document that
14 was entitled "Black Blood Brotherhood"?

15 A. Yes, I did.

16 Q. And was that at the request of your son Dante?

17 A. Yes, it was.

18 Q. And did you then print out what you typed up?

19 A. Yes, I did.

20 Q. And did you send that to various locations?

21 A. Yes, I did.

22 Q. Again, was that at the request of your son?

23 A. Yes, it was.

24 Q. And did you send it to law enforcement agencies?

25 A. Yes, I did.

~~STAPLES~~ - CROSS

1 Q. Do you have a specific recall right now which agencies you
2 sent it to?

3 A. Just offhand, I know it was a lot of the police stations
4 in the Park Heights area. It was different organizations,
5 churches. It was quite a few organizations. It was about 50
6 copies.

7 Q. Okay. And do you remember if "Safe Streets" was one of
8 the organizations?

9 A. Yes.

10 Q. Okay.

11 MS. WHALEN: Thank you very much, Ms. Staples.

12 THE WITNESS: Okay.

13 THE COURT: Any questions?

14 MS. HOFFMAN: Just a couple.

15 CROSS-EXAMINATION

16 BY MS. HOFFMAN:

17 Q. Good afternoon, Ms. Staples.

18 A. Good afternoon.

19 Q. Dante Bailey is your son?

20 A. Yes, he is.

21 Q. You care about him a great deal?

22 A. I love him.

23 Q. And I'm sure you don't want anything bad to happen to him.

24 A. That's correct.

25 Q. And you'd do just about anything to help him out if he

~~STAPLES - CROSS~~

1 were in trouble?

2 **A.** Yeah.

3 **MS. HOFFMAN:** I have no further questions. Thank you.

4 **THE COURT:** Okay. Anything else?

5 **MS. WHALEN:** No questions. Thank you.

6 **THE COURT:** Thank you very much. Thank you very much,
7 Ms. Staples. You're excused.

8 (Witness excused.)

9 **THE COURT:** All right. Thank you.

10 All right. Ladies and gentlemen, we have some
11 additional issues to discuss, and we may have some additional
12 testimony for you this afternoon.

13 But I'm going to give you a little bit long lunch hour
14 today. We're going to ask counsel to stick around, but I'm
15 going to excuse you until 2 o'clock for your lunch recess
16 today.

17 Thank you very much.

18 (Jury left the courtroom at 12:36 p.m.)

19 **THE COURT:** And, counsel, I'm going to suggest that
20 perhaps you all could come to chambers at about quarter of
21 2:00. We'll sort of try to see where things stand in regard to
22 both the video, Mr. McGee, and the question of Mr. Temple.

23 Anything else that would be helpful to talk about
24 right now?

25 **MS. HOFFMAN:** I don't think so. Just -- and maybe it

~~McGEE - DIRECT~~

1 will be mooted by what happens with Mr. Temple; but if he does
2 elect to testify, of course, we would like to argue our motion
3 on the record.

4 **THE COURT:** Sure. Okay.

5 All right. I'll see you at quarter of 2:00 in
6 chambers.

7 Thank you.

8 You're excused.

9 I'm sorry. The gallery is excused.

10 All right. And the rest of us.

11 (Luncheon recess taken.)

12 **THE COURT:** All right. Welcome back.

13 I think we're ready to bring the jury in and re-call
14 Mr. McGee?

15 **MS. WHALEN:** Yes.

16 **THE COURT:** Okay.

17 (Jury entered the courtroom at 2:09 p.m.)

18 MICHAEL MCGEE, DEFENDANT BAILEY'S WITNESS, PREVIOUSLY
19 SWORN.

20 **THE CLERK:** Mr. McGee, you're still under oath.

21 **THE WITNESS:** Yes, ma'am.

22 DIRECT EXAMINATION

23 **BY MS. WHALEN:**

24 **Q.** Good afternoon, Mr. McGee.

25 **A.** Good afternoon.

1 Q. We were talking a little bit about a movie called
2 Straight Outta Compton.

3 Do you recall that?

4 A. Yes.

5 Q. And is there a scene in that movie which shows or depicts
6 a bus?

7 A. Yes, there is.

8 Q. Now, to your knowledge, is that just a general movie that
9 was put out there for anyone to see?

10 A. Yes.

11 Q. And then did you also determine whether it was on YouTube?

12 A. Yes.

13 Q. And did you watch the scene with the bus?

14 A. Yes, I did.

15 Q. Could you describe it for us.

16 A. Yes. There are some kids on the bus, on the driver's side
17 of the bus, that are hanging out the window making signs with
18 their hands to a car that's driving alongside of the bus. And
19 at one point, the car cuts in front of the bus, forcing the bus
20 to stop.

21 The passenger in the car gets out and forces his way onto
22 the bus and walks down the aisle and begins chastising, yelling
23 at the kids, telling them what they're doing is wrong with the
24 signs.

25 Q. And does he also have a weapon?

~~McGEE - CROSS~~

1 **A.** He does. He has a gun.

2 **Q.** All right. And is he making any threatening gestures?

3 **A.** Yes, he is. He -- to the kid that he appeared to
4 recognize as being the main one making the hand signs out the
5 window, he threatened the kid with -- to not make the signs
6 anymore and told him to stay in books and school and things
7 like that.

8 **Q.** And just to make it clear, the person depicted in that
9 movie was not Dante Bailey; right?

10 **A.** No, it was not.

11 **Q.** All right. And do you know whether it was an actor or
12 not?

13 **A.** The person in the movie?

14 **Q.** Yes.

15 **A.** I don't know who the actor was.

16 **Q.** Okay.

17 **A.** But it was an actor. It was . . .

18 **MS. WHALEN:** Thank you, then.

19 That's all the questions, Your Honor.

20 **THE COURT:** Thank you. Any cross?

21 CROSS-EXAMINATION

22 **BY MS. HOFFMAN:**

23 **Q.** Just briefly, Mr. McGee. You said you were a BPD
24 detective for about ten years?

25 **A.** A police officer. Yes.

1 Q. Police officer.

2 And you've investigated crimes in Baltimore City; is that
3 right?

4 A. Yes.

5 Q. And you know that some things that happen in movies and TV
6 also happen in real life; is that fair?

7 A. It's possible, yes.

8 Q. People are threatened in movies, and sometimes people are
9 threatened in real life?

10 A. Yes.

11 Q. People are murdered in movies, and sometimes people are
12 murdered in real life?

13 A. Yes.

14 Q. And people are gang members in movies, and sometimes
15 people are gang members in real life?

16 A. That's possible, yes.

17 Q. And the Bloods-Crips rivalry, that's a real thing; right?
18 That's not just fiction?

19 A. I believe it is, yes.

20 Q. And the Bloods is a gang that originated in -- around
21 Piru Street in Compton, California; is that right?

22 A. Yes.

23 Q. And, in fact, the movie that you were just asked about,
24 Straight Outta Compton, isn't that movie based on real-life
25 events?

1 **A.** Well, I believe it's -- I don't know about real life, but
2 I believe it's based on the perspective of people that have
3 lived in Compton.

4 **MS. HOFFMAN:** I have no further questions.

5 **THE COURT:** Anything else?

6 **MS. WHALEN:** Nothing further.

7 **THE COURT:** Thank you very much, sir. You're excused.

8 (Witness excused.)

9 **THE COURT:** If I can see counsel at the bench for a
10 minute.

11 (Bench conference on the record:

12 **THE COURT:** Again, until we resolve the issue of
13 Mr. Temple, there's no evidence to call at the moment, I think
14 that's still the case; right?

15 I'm going to excuse the jury.

16 **MR. HAZLEHURST:** We may have a stipulation. But I
17 haven't gotten it signed yet, so . . .

18 **THE COURT:** Okay. All right. I'm going to send the
19 jury out.)

20 (Bench conference concluded.)

21 **THE COURT:** Sorry, ladies and gentlemen.

22 Okay. I have some more things to discuss with
23 counsel. There may or may not be another stipulation or
24 witness for you, but there are some other things we need to
25 talk about.

1 I apologize and thank you again for your patience, but
2 we're going to excuse you.

3 And we'll keep everybody else here.

4 Thank you very much.

5 (Jury left the courtroom at 2:14 p.m.)

6 **THE COURT:** Okay. There remains a question of whether
7 any of the individual defendants would choose to testify.

8 At this point, since we are at the close of the -- or
9 almost at the close of the evidence, I need to get everybody's
10 choice on the record.

11 And I'll start with counsel for Mr. Bailey, advising
12 Mr. Bailey.

13 **MS. WHALEN:** Your Honor, could I sit or do you want my
14 client to stand?

15 **THE COURT:** You can sit.

16 **MS. WHALEN:** Mr. Bailey, you have an absolute right
17 to --

18 **THE COURT:** Just speak into the mic. I'm sorry.

19 **MS. WHALEN:** You have an absolute right to remain
20 silent throughout the trial, and that means that you do not
21 have to testify in your own defense.

22 And you can waive that and testify if you so choose to
23 do so.

24 If you testify in this case, the Government would
25 cross-examine you, of course. And in that cross-examination,

1 they would be entitled -- within the bounds of the court and
2 the rules that we have, they would be entitled to ask you
3 questions about any prior convictions that you have, including
4 felonies and any misdemeanors. And that would include the
5 prior conviction which is the subject of the felon in
6 possession count that you currently are facing.

7 Have you and I discussed this right before?

8 **DEFENDANT BAILEY:** Yeah.

9 **MS. WHALEN:** To testify or not to testify?

10 **DEFENDANT BAILEY:** Yeah.

11 **MS. WHALEN:** And have you also discussed it with
12 Mr. Enzinna as well?

13 **DEFENDANT BAILEY:** No.

14 **MS. WHALEN:** Okay. In terms of discussing this right,
15 have we done so on more than one occasion?

16 **DEFENDANT BAILEY:** No.

17 **MS. WHALEN:** All right. Do you have questions that
18 you want to ask Mr. Enzinna and I that are related to this
19 issue?

20 **DEFENDANT BAILEY:** Yeah.

21 **MS. WHALEN:** I would ask for the Court's indulgence so
22 that we can be satisfied.

23 **THE COURT:** Okay. Let me just add as well, the
24 cross-examination regarding prior crimes, of course, generally
25 that would apply to felonies, and I believe you mentioned

1 misdemeanors. Of course, if they do bear on truthfulness,
2 those would also most likely be subject for cross-examination.

3 I just wanted to say that if -- as you indicated,
4 Mr. Bailey has the absolute right to choose to testify or not
5 to testify. If his choice is not to testify, then I would
6 also, as I have already done, instruct the jury that a decision
7 not to testify -- and this applies to everyone -- a decision
8 not to testify may not be held against them by the jury. They
9 simply may not consider it in any way because it's absolutely
10 the person's right not to testify.

11 So I just wanted to be clear that that instruction
12 would be given as well as opposed to, of course, if you do
13 testify. Then, as Ms. Whalen said, you're subject to
14 cross-examination. And your testimony is considered like any
15 other witness that would come in.

16 Do you understand that, sir?

17 **DEFENDANT BAILEY:** Not clearly.

18 **THE COURT:** Not clear? All right. Well, why don't
19 you talk to Ms. Whalen for a bit there.

20 Maybe we can put the husher on.

21 (The defendant conferred with counsel.)

22 **MS. WHALEN:** Thank you, Your Honor.

23 **THE COURT:** All right.

24 **MS. WHALEN:** Mr. Bailey, do you wish to testify or do
25 you wish to remain silent?

1 **DEFENDANT BAILEY:** Remain silent.

2 **THE COURT:** All right, sir. You've had an opportunity
3 to speak more with counsel, and it is your choice not to
4 testify; is that correct?

5 **DEFENDANT BAILEY:** Yes, Your Honor.

6 **THE COURT:** All right. Thank you, sir.

7 Let me move -- Mr. Sardelli, would you like to advise
8 Mr. Banks.

9 **MR. SARDELLI:** Mr. Banks, we've talked previously
10 about your right to testify; am I correct?

11 **DEFENDANT BANKS:** Yes.

12 **MR. SARDELLI:** And on previous occasions, I've
13 recommended or advised you to not testify in this case; is that
14 correct?

15 **DEFENDANT BANKS:** Yes.

16 **MR. SARDELLI:** And you heard what the judge said
17 previously and what Ms. Whalen said previously as well about
18 your right to testify and some of the risks associated with
19 testifying; am I correct?

20 **DEFENDANT BANKS:** Yes.

21 **MR. SARDELLI:** That includes possibly being crossed on
22 your criminal history or being crossed on incidents like --
23 such as the burglary we discussed that did not come into
24 evidence. There's a chance if you testify, that we could open
25 the door to some of those things that we kept out.

1 **DEFENDANT BANKS:** Yes.

2 **MR. SARDELLI:** Now, based on all of this, I've advised
3 you not to testify. But is it your wish to not testify in this
4 case?

5 **DEFENDANT BANKS:** Yes.

6 **THE COURT:** Okay. And just to be clear, Mr. Banks, it
7 is certainly correct that it is Mr. Sardelli's job to give you
8 his best advice. But, ultimately, the choice is up to you.

9 So your choice is not to testify in this case; is that
10 correct?

11 **DEFENDANT BANKS:** Correct.

12 **THE COURT:** Okay. Thank you, sir.

13 Mr. Trainor.

14 **MR. TRAINOR:** Mr. Lockley, you have the absolute right
15 to remain silent and not testify or elect to testify from the
16 witness stand in this courtroom before the jury.

17 If you elect to testify, you can be cross-examined.
18 And the jury will be made aware of prior felony convictions,
19 including any prior drug felony convictions as well as certain
20 misdemeanors that bear on truthfulness.

21 If you elect to remain silent, the jury could not hold
22 that against you in any way. And they would be instructed by
23 the Court that your silence can't even be considered; it should
24 not even be discussed.

25 Have you had enough time to consider whether or not

1 you want to testify in this case?

2 **DEFENDANT LOCKLEY:** Yes.

3 **MR. TRAINOR:** Do you plan to testify or elect to
4 remain silent?

5 **DEFENDANT LOCKLEY:** Remain silent.

6 **THE COURT:** All right, sir. So just to be clear, it
7 is your choice, after speaking with your attorney, not to
8 testify in this case; is that right?

9 **DEFENDANT LOCKLEY:** Yes, ma'am.

10 **THE COURT:** All right. Thank you.

11 **MS. AMATO:** Thank you.

12 Mr. Anderson, as you know, you have a right to choose
13 whether you would like to testify or not testify on your own
14 behalf in this case.

15 We have discussed this on several occasions. And it's
16 my understanding, based on our discussions, that you have
17 chosen to not testify.

18 But I just want to reiterate again to you that it is
19 your right to choose and that you do know that if you were to
20 testify, certainly the Government could cross-examine you,
21 questions relating to not only the offense in question, but
22 also to your prior convictions.

23 Do you understand all of that?

24 **DEFENDANT ANDERSON:** Yes.

25 **MS. AMATO:** Okay. And what is your decision at this

1 point?

2 **DEFENDANT ANDERSON:** Remain silent.

3 **THE COURT:** All right. And, again, sir, after talking
4 with counsel, it is your choice not to testify in this case; is
5 that right?

6 **DEFENDANT ANDERSON:** Yes, ma'am.

7 **THE COURT:** Okay. All right. Thank you.

8 Mr. Hazlehurst.

9 **MR. HAZLEHURST:** Thank you, Your Honor.

10 Mr. Davis, hearing what all other counsel have advised
11 their clients, you understand that you have an absolute right
12 to testify in this case if you so choose.

13 Do you understand that?

14 **DEFENDANT DAVIS:** Yes, I understand.

15 **MR. HAZLEHURST:** And it's a Constitutional right. In
16 other words, it cannot be taken away from you.

17 Do you understand that?

18 **DEFENDANT DAVIS:** Yes.

19 **MR. HAZLEHURST:** And we have discussed the matter on
20 several occasions; correct?

21 **DEFENDANT DAVIS:** Yes.

22 **MR. HAZLEHURST:** And you understand that if you did
23 choose to testify, you would be subject to cross-examination.
24 And that cross-examination could potentially not be limited by
25 what you were asked on direct examination; it could go beyond

1 that.

2 Do you understand that?

3 **DEFENDANT DAVIS:** Yes.

4 **MR. HAZLEHURST:** And you only have the one prior
5 felony conviction, so I don't believe there are any other
6 convictions that could be brought up on your record as
7 impeachment; but, again, that could be inquired into, that one
8 conviction, on cross-examination.

9 Do you understand that?

10 **DEFENDANT DAVIS:** Yes, I understand.

11 **MR. HAZLEHURST:** And having been advised of that right
12 and what potentially could occur, it's my understanding that
13 you choose not to testify in this case; is that correct?

14 **DEFENDANT DAVIS:** Yes.

15 **THE COURT:** All right. Again, thank you.

16 So, Mr. Davis, having had a chance to talk to counsel
17 and consider it, it is your choice not to testify in this case;
18 is that correct?

19 **DEFENDANT DAVIS:** Yes, Your Honor.

20 **THE COURT:** Okay. Thank you.

21 All right. If I could --

22 **MR. HAZLEHURST:** Your Honor, I have typed up the
23 stipulation. Unfortunately, I'm not sure I do have the
24 technological capability to get it signed on my tablet. But we
25 could print it, have it signed, potentially put that to the

1 jury before they leave.

2 **THE COURT:** Okay. That would be good.

3 **THE CLERK:** He can e-mail it to me.

4 **THE COURT:** Can you e-mail it to Ms. Moyé.

5 **MR. HAZLEHURST:** I will, Your Honor.

6 **THE COURT:** All right. While you're doing that, if I
7 might consult briefly up here at the bench with Mr. Simms.

8 (Sealed ex parte bench conference on the record under
9 separate cover.)

10 **THE COURT:** I'll just report that we do have counsel
11 representing Mr. Temple, that is, Mr. Simms. He has advised me
12 that he needs some additional time to speak with his client on
13 this question of testimony.

14 So we'll go ahead and take some additional time.

15 Let's see. So there's the stipulation.

16 Oh, not sent yet?

17 **MR. HAZLEHURST:** Not sent yet.

18 **THE COURT:** Working on that. Okay.

19 **MR. ENZINNA:** Your Honor --

20 **THE COURT:** Yes.

21 **MR. ENZINNA:** -- this morning in chambers, I raised an
22 issue about instructions. And you asked me to submit something
23 in writing.

24 Would you like me to e-mail that to Ms. Moyé?

25 **THE COURT:** You could e-mail that to the chambers

1 e-mail box or to Ms. Moyé.

2 **MR. ENZINNA:** Okay. And I'll copy all counsel on it.

3 **THE COURT:** Okay.

4 (Pause.)

5 **THE COURT:** I guess actually while we're waiting and
6 since we do not know yet what Mr. Temple's choice would be, if
7 you want to argue the motion on the alibi defense, we could do
8 that.

9 **MS. HOFFMAN:** Thank you, Your Honor.

10 So I wanted, first, to start by just correcting some
11 factual misstatements in the defendant's response to our motion
12 to exclude, which was ECF-1145.

13 Ms. Whalen stated in her brief that she wasn't on
14 notice that her client, Dante Bailey, was with Nizzy on the
15 night of the Bangout murder until Jencks was turned over a week
16 before trial or until the first day of trial when the
17 Government provided a disc of exhibits, including DEM-7.

18 And that is false. That is not correct.

19 First of all, the Government turned over
20 Dante Bailey's phone records as well as the extraction report
21 for Dominick Wedlock's cell phone in spring of 2017, so that
22 was over two years ago or roughly two years ago.

23 And Wedlock's phone shows the phone number, the
24 (667) 207-4928 phone number saved as Bruh Nizz. There was no
25 cooperator testimony about that phone number whatsoever. It's

1 simply what Wedlock's phone extraction shows as being the phone
2 number of Bruh Nizz.

3 And then Bailey's phone records show multiple phone
4 calls to Bruh Nizz, that phone number, on the night of
5 Bangout's murder.

6 This was provided over two years ago in
7 Government's Exhibit DEM-7, which was provided on a disc the
8 week before trial started. It is just a summary of the
9 information that was included in the discovery years ago.

10 More importantly, though, Dante Bailey has known where
11 he was on the night of the murder since the night of the
12 murder.

13 Ms. Whalen appears to be suggesting in her brief that
14 she couldn't learn where her client was at the time of the
15 murder until she heard all the cooperator testimony and saw all
16 the Government's evidence. And that's just not the case.

17 That's tantamount to arguing that the defendant has
18 the right to fabricate an 11th-hour alibi tailored to the
19 Government's evidence, and that's exactly what Rule 12.1 is
20 intended to avoid.

21 Dante Bailey didn't learn where he was on the night of
22 Bangout's murder from Nizzy. He didn't learn it from the phone
23 records. He knew where he was all along.

24 And it's, we think really, frankly, preposterous to
25 claim that he has the right to wait until the Government rests

1 its case so that he can figure out what his alibi defense will
2 be. That's precisely what Rule 12.1 bars.

3 Ms. Whalen claims the Government was on notice that
4 Dante Bailey was with Davon Temple at the time of the Bangout
5 murder and had the opportunity to investigate Temple, and I
6 think that's another red herring.

7 The problem is not that we weren't on notice that
8 Dante Bailey was with Davon Temple on the night of the Bangout
9 murder. Of course, we knew that. Of course, we've
10 investigated Temple. That's not the problem.

11 The problem is that Dante Bailey didn't tell us where
12 he claims to have been at the time of the murder until two
13 business days ago, five weeks into trial, after we'd finished
14 our case.

15 And the location where Bailey claims to have been is
16 the alibi defense. That's what Rule 12.1 requires notice of.
17 It doesn't require the defendant to tell us exactly what every
18 witness on his behalf is going to say. It requires him to tell
19 us where he claims he was at the time of the murder.

20 We haven't had an adequate opportunity to investigate
21 the defendant's alibi defense that he was at
22 2409 Loyola Northway at the time of the murder.

23 We have not been able to interview people at that
24 location. We have not been able to talk to cooperators about
25 that location. We have not been able to review Nizzy's

1 jail calls the week that Jencks was turned over or interview
2 people incarcerated with Nizzy, who -- which might have yielded
3 evidence of recent fabrication.

4 There are a number of investigative steps that we
5 would have taken that we cannot take because this information
6 was provided to us after we had finished our entire case, two
7 business days ago, right before Easter weekend.

8 There's another reason why Davon Temple should be
9 precluded from testifying, actually, totally apart from
10 Rule 12.1, and that's because the rule -- we believe the rule
11 of sequestration has been violated.

12 The parties invoked the witness sequestration rule at
13 the start of trial and that rule states [reading]: No person
14 may directly or indirectly advise a witness other than a party
15 or expert witness of what the testimony of another witness has
16 been.

17 And we believe that's exactly what happened here, that
18 Dante Bailey waited until the completion of the Government's
19 case so that he and his lawyers and investigators could tell
20 Davon Temple what the witnesses had testified to and allow him
21 to tailor his alibi defense to the facts in evidence, including
22 the GPS in evidence.

23 It's hard to imagine a more flagrant and, we believe,
24 willful violation of Rule 12.1.

25 I think if we care anything about the adversarial

1 system as a truth-finding process, then this can't be
2 permitted.

3 The Supreme Court held in Williams v. Florida
4 [reading]: It's too easy to fabricate a last-minute alibi.
5 There's too grave a danger that the jury will be swayed by
6 perjured testimony. If this kind of tactic wins the day, if
7 the jury is allowed to hear this last-minute alibi defense with
8 no chance for us to investigate it, then I think the justice
9 system has failed. It's not just the Government that loses
10 out. It's everyone.

11 Ms. Whalen, I think, also is wrong that the
12 Sixth Amendment bars preclusion of an 11th-hour alibi. The
13 Supreme Court held in Taylor versus Illinois that the
14 Sixth Amendment does not create an absolute bar to the
15 preclusion of testimony by a surprise witness.

16 And I do want to read -- there's a lot of helpful
17 language in that decision, but I want to read one part of it
18 that is really right on point.

19 The Supreme Court says in that case, quote, It is
20 elementary, of course, that a trial court may not ignore the
21 fundamental character of the defendant's right to offer the
22 testimony of witnesses in his favor. But the mere invocation
23 of that right cannot automatically and invariably outweigh
24 countervailing public interests. The integrity of the
25 adversary process, which depends both on the presentation of

1 reliable evidence and the rejection of unreliable evidence, the
2 interest in the fair and efficient administration of justice,
3 and the potential prejudice to the truth-determining function
4 of the trial process must also weigh in the balance.

5 A trial judge may certainly insist on an explanation
6 for a party's failure to comply with a request to identify his
7 or her witness in advance of trial. If that explanation
8 reveals that the omission was willful and motivated by a desire
9 to obtain a tactical advantage that would minimize the
10 effectiveness of cross-examination and the ability to adduce
11 rebuttal evidence, it would be entirely consistent with the
12 purposes of the compulsory process clause simply to exclude the
13 witness's testimony, unquote.

14 We understand, of course, that Mr. Temple has been
15 brought here by the marshals from Hagerstown. We understand
16 that the jury's ready to go.

17 But if the Court -- we are moving to exclude his
18 testimony. And if the Court is going to permit Davon Temple to
19 testify, then we ask, as an alternative remedy, that when the
20 defense case is completed, that we have one to two days to
21 decide what rebuttal case we want to put on and further
22 investigate the alibi and prepare our closing arguments.

23 I think there absolutely has to be a remedy. And
24 we've, as I mentioned in chambers, we have spent our Easter
25 weekend doing our best to investigate this 11th-hour alibi

1 defense, in addition to new witnesses that were noticed on
2 Friday of last week.

3 So we are moving to exclude it, but we are moving, in
4 the alternative, for that remedy of one to two days after the
5 defense case rests, I suppose, to determine what, if any,
6 rebuttal case we want to put on.

7 **THE COURT:** Okay. Thank you. Appreciate it,
8 Ms. Hoffman.

9 Ms. Whalen.

10 **MS. WHALEN:** Your Honor, just a couple of points.

11 I think I tried to set out factually where the defense
12 was in this scenario, and it's not a scenario that we certainly
13 wanted to be in.

14 But to suggest somehow that Mr. Bailey knew exactly
15 where he was and that this is an eleventh-hour tactic I think
16 just ignores the fact that perhaps people do not know where
17 they are.

18 And the question is not whether Mr. Bailey knew,
19 because that assumes he did, and we're talking years later --
20 later. The question is when counsel learned of what the
21 witness could say.

22 To suggest that there is a violation of the rule of
23 sequestration, I am not even sure how to respond to that except
24 for to say I have certainly worked with this investigator for
25 several years now, and I have absolutely no doubt that he did

1 not, nor would he have been able to, explain what was going on
2 specifically in the courtroom with witnesses to attempt to tell
3 Mr. Temple what he should say or shouldn't say.

4 And so I reject that out of hand, that that did not
5 occur.

6 As Your Honor knows, I have had extremely limited
7 contact with Mr. Temple because he's been moved from place to
8 place, and my attempts to meet with him have been foiled except
9 for very few minutes this morning.

10 **THE COURT:** What were the efforts to meet with
11 Mr. Temple prior to trial? I am having some difficulty
12 understanding -- I mean, apparently Mr. Temple was identified
13 as a potential witness before trial having to do with the
14 events of February 12th.

15 I do think that it's a fairly significant, I mean,
16 evening. It's not unreasonable to think that your client might
17 remember where he was but that, in any event, you were aware of
18 Mr. Temple, something to do with Mr. Temple possibly being a
19 witness before trial, yet did not disclose this information
20 until the last day.

21 **MS. WHALEN:** The only time -- or the last day, being
22 last -- I guess it was last Thursday that I e-mailed the
23 Government the specifics. There had been attempts to meet with
24 Mr. Temple by my investigator prior to that. He did meet with
25 him on one occasion.

1 But we did not have specific information from him. It
2 wasn't contrary information, but we didn't have specific
3 information.

4 We knew from the Government's case -- so, in other
5 words, I did not have what I turned over, which is that he, in
6 fact, was with my client at some point and that he was driving
7 around.

8 That location already, I would suggest, was known to
9 the Government, because they had my client and his cell phone
10 in the area of where my client, according to Mr. Temple, was,
11 his home, which is up north of Druid Park near
12 Cold Spring Lane.

13 The cell phone was pinged off of that particular
14 area.

15 And then the --

16 **THE COURT:** But I thought during the crucial period,
17 it didn't ping. I mean, that's the whole point.

18 **MS. WHALEN:** No. But what -- that's true.

19 But then they have the GPS track marks in the area
20 where I believe that Mr. Temple would say they were driving
21 around.

22 So that kind of information -- of course, he doesn't
23 know what -- that there are GPS track points or anything, to my
24 knowledge. But that was the specific information that we
25 learned from him, that they were driving around. They went

1 from the house, and they were driving around.

2 The crucial time is somewhere between 12:00 and
3 1 o'clock in the morning, and that's what we expect him to
4 testify that my client actually dropped him off at some point
5 and then he doesn't know where he went.

6 **THE COURT:** Maybe it would be helpful to get a little
7 more specific proffer, then, of what exactly you think
8 Mr. Temple's going to testify to about the timing.

9 Can you tell me that?

10 **MS. WHALEN:** I expect that he will testify that at
11 some point after he was working in that evening, he was with my
12 client. They were doing video games. I believe it was at a
13 location that he lived in, which is the address I gave the
14 Government, which is near that Cold Spring Lane address.

15 That at some point they went out and were driving
16 around. I think he will say they were driving around looking
17 for marijuana. They were in the West Lanvale area.

18 And from there Mr. Bailey dropped him off, and he
19 presumes that he went home.

20 **THE COURT:** Driving around the West Lanvale area and
21 then Mr. Bailey --

22 **MS. WHALEN:** Dropped him -- dropped Mr. Temple off. I
23 believe he will say he dropped him off at his mother's house,
24 which I think is on Laurretta. And then Mr. Bailey left from
25 there. But I have not been able to firm up the -- which house

1 he dropped him off at.

2 **THE COURT:** Okay. Sounds a bit unclear.

3 **MS. HOFFMAN:** So, yeah. I mean, Your Honor, now we're
4 getting two new locations that we have not heard about until
5 this very moment, the West Lanvale area and mother's house on
6 Lauretta.

7 The location that we were given on Thursday was
8 2409 Loyola Northway.

9 This is -- I mean, this is exactly what Rule 12.1 is
10 supposed to avoid, is this ever-evolving alibi defense tailored
11 to the Government's evidence.

12 We have literally no -- I mean, this is the very first
13 time just now that we've heard about these two locations. We
14 have no way to investigate those. We have no way to adequately
15 cross-examine Mr. Temple about whether he was at these
16 locations for these purposes.

17 The alibi notice that we got on Thursday was very
18 specific. It said that Mr. Temple dropped Bailey off at
19 2409 Loyola Northway at 1:00 a.m., which is precisely the time
20 when James Edwards was killed or he was -- the first 9-1-1 call
21 came in at 12:59 a.m.

22 So -- and now we're getting something a little bit
23 different.

24 And I think the lack of clarity only strengthens our
25 position here that this is what Rule 12.1 is intended to avoid

1 and that this should be excluded. There's too grave a risk of
2 perjured testimony and the jury being swayed by it.

3 **THE COURT:** Okay. Did we get the stipulation, by
4 chance?

5 **MR. HAZLEHURST:** Yes, Your Honor.

6 I need to get it signed by the Government.

7 **THE COURT:** Okay. I'm going to propose that we bring
8 the jury back in for the stipulation.

9 I'll, once again, apologize to them, send them back
10 out. We'll take a recess and still need to find out whether
11 this is going to be a live issue with Mr. Temple, but I'm going
12 to reflect on what counsel have argued.

13 Ah, well, let's see. I see Mr. Simms.

14 Can you come up to the bench, Mr. Simms.

15 (Sealed ex parte bench conference on the record under
16 separate cover.)

17 **THE COURT:** All right. And I will ask Mr. Simms to
18 correct if I say anything differently from what he just told me
19 at the bench.

20 Mr. Simms was appointed by the Court to represent
21 Mr. Temple, who had requested counsel.

22 Mr. Simms has now had the opportunity to speak with
23 Mr. Temple for approximately an hour and a quarter about his
24 rights, about his current situation.

25 It is my understanding from Mr. Simms that if

1 Mr. Temple were called to testify, he would assert his
2 Fifth Amendment privilege.

3 Is that correct, Mr. Simms?

4 **MR. SIMMS:** Yes. Yes, Your Honor.

5 **THE COURT:** Yes.

6 Anything further on this issue?

7 **MS. WHALEN:** No, Your Honor.

8 **THE COURT:** Okay. Thank you very much, Mr. Simms.
9 Appreciate your service to the Court.

10 We'll get the jury and do the stipulation.

11 Yes, Ms. Hoffman?

12 **MS. HOFFMAN:** With that decided, if Your Honor would
13 like to try to fill up more time today and if the defense is
14 ready to rest, I think we would be able to get a rebuttal
15 witness here in an hour. He would be brief, but it would take
16 him an hour to drive here. Just wanted to throw it out there.

17 **THE COURT:** Okay. And who would that be?

18 **MS. HOFFMAN:** That would be Shawn Potts, and he would
19 just be testifying to rebut -- in rebuttal to some of the
20 stipulations and evidence and testimony that was put in by
21 Ms. Amato about Corloyd Anderson's financial documents.

22 **THE COURT:** And he would otherwise testify tomorrow
23 morning? Because you're saying it would take an hour.

24 **MS. HOFFMAN:** Yes. He would be available tomorrow. I
25 just was offering it as an option in case we want to fill the

1 day today and take a recess tomorrow.

2 **THE COURT:** That is a good point. I do not want to
3 bring the jury in for five or ten minutes of testimony.

4 All right. We have the one stipulation. We can take
5 a recess. I can ask the jury.

6 Do you think he could be here in an hour?

7 **MS. HOFFMAN:** I think he could, yes. And I think his
8 direct would be 10, 10 to 15 minutes, quick.

9 **THE COURT:** Okay. So in that case we'd get to a point
10 where we could not have the trial tomorrow. I may talk to
11 counsel about instructions and so forth. But then all the
12 evidence would be in, and we could do -- start instructions and
13 argument on Wednesday.

14 **MS. HOFFMAN:** That's right, Your Honor.

15 **THE COURT:** Okay. Is that acceptable to everyone?

16 (No response.)

17 **THE COURT:** All right. Then we'll bring the jury in
18 briefly on the stipulation, get that on the record, and the
19 defense can rest.

20 (Jury entered the courtroom at 2:55 p.m.)

21 **THE COURT:** All right. Thank you very much, ladies
22 and gentlemen.

23 I know this has been a little bit on and off for you,
24 but I appreciate your patience.

25 Mr. Hazlehurst, I believe you have something you wish

1 to present.

2 **MR. HAZLEHURST:** Yes, Your Honor.

3 Your Honor, the parties have reached a stipulation in
4 regard to Mr. Davis which I would like to read into the record,
5 if I may.

6 **THE COURT:** Certainly.

7 **MR. HAZLEHURST:** [Reading]: The parties agree and
8 stipulate that Shakeen Davis has no tattoos on his body of any
9 kind, and it has been signed by all parties.

10 And I would ask it be entered as an exhibit,
11 Your Honor.

12 **THE COURT:** Thank you. We'll admit that as an
13 exhibit.

14 **MR. HAZLEHURST:** Your Honor, with that, Mr. Davis
15 rests his case.

16 **THE COURT:** Mr. Davis rests. All right. Thank you.
17 Let me see if there is anything additional on behalf
18 of Mr. Bailey.

19 **MR. ENZINNA:** Your Honor, on behalf of Mr. Bailey, the
20 defense rests.

21 **THE COURT:** All right. Thank you.

22 Mr. Sardelli?

23 **MR. SARDELLI:** On behalf of Mr. Banks, the defense
24 rests, Your Honor.

25 **THE COURT:** Mr. Trainor.

1 **MR. TRAINOR:** Your Honor, on behalf of Mr. Lockley,
2 the defense rests.

3 Thank you.

4 **THE COURT:** Thank you.

5 **MS. AMATO:** And, Your Honor, on behalf of
6 Mr. Anderson, the defense rests.

7 **THE COURT:** All right. Thank you, all.

8 Ladies and gentlemen, the defense has rested.

9 It is my understanding that the Government seeks to
10 call one rebuttal witness. The Government is in the process of
11 trying to obtain that witness so that they can testify today so
12 that the evidence will all be concluded today.

13 If things go as we hope, we would then not ask you to
14 come in tomorrow. We will rather be able to deal with things
15 without making you wait on legal issues tomorrow and then be
16 ready to have instructions and argument on Wednesday. That is
17 my plan. That is my hope. I'm crossing my fingers.

18 So, again, appreciating your patience, we're going to
19 take a further recess and see if there's going to be a rebuttal
20 witness a bit later in the afternoon.

21 Okay. Thank you very much. You're excused again.

22 (Jury left the courtroom at 2:58 p.m.)

23 **THE COURT:** We'll excuse the gallery.

24 Why don't we say we'll resume at 4:00. If it turns
25 out that your witness is here more quickly and we can get back

1 in court before that, you'll let us know.

2 **MS. HOFFMAN:** We'll let you know, yes.

3 **THE COURT:** Okay. Otherwise, we'll recess until
4 4 o'clock.

5 Thank you.

6 (Recess taken.)

7 **THE COURT:** All right. So I understand there is an
8 objection to the rebuttal. I've gotten the e-mail.

9 Let me start with the casino records. Could I see
10 what it was that was admitted and the stipulation.

11 **MS. AMATO:** Yes.

12 **MS. HOFFMAN:** I don't actually know -- I think
13 Ms. Amato has copies of the stipulation.

14 **MS. AMATO:** Actually, the Court has all the
15 stipulations.

16 **THE COURT:** I think Ms. Moyé is about to -- I'll need
17 both of them, the casino records and the business records.

18 **MS. AMATO:** They're Exhibits 15, 16, and 17, I
19 believe.

20 **THE COURT:** Okay. Regarding the casino records, what
21 I have is just a stipulation, no actual documents. It is
22 Defendant's Exhibit 15, and it indicates three dates on which
23 Mr. Anderson won certain sums of money.

24 What would -- are copies of those documents already in
25 evidence?

1 **MS. AMATO:** I -- yes. So the Government had
2 introduced as casino -- CAS-1, they introduced the W-2G forms
3 that Maryland Live! sent to the IRS as to the 70,000 win and
4 the two 1,420 wins.

5 So my only concern and why I wanted the stipulation
6 was because Officer Schmidt seemed to question the reliability
7 of those documents.

8 He made a statement about that two of the documents
9 had the exact same number for the same date, the same winning.
10 And so he seemed to think that -- it kind of put the suggestion
11 that these documents were actually fraudulently made.

12 And so to meet that and respond to that -- because, in
13 fact, Mr. Anderson had won that money and it's just the way the
14 casino prepares their W-2 sixes [sic], depending on, I guess,
15 which location a person is at. Even if the wins are exactly
16 the same on the same day, they prepare more than one.

17 And so I wanted to at least be able to meet that and
18 to show the jury that, no, in fact, those documents were
19 legitimate because the Maryland Live! had actually recorded
20 that he had won for those three times, the December 13th and
21 then the August 30th.

22 Then as to the other one, the Government had put on a
23 witness who searched his residence. And they introduced
24 photographs from the agent, \$2,500 in cash that was found in a
25 pocket at Mr. Anderson's residence.

1 And so to meet that, in essence, and respond to that
2 evidence, then, therefore, there's the -- the stipulation that
3 the casino records reflect that, in fact, he had won, two days
4 prior to his arrest, \$8,100. So that's what that was.

5 But, again, I didn't introduce the casino records in
6 full, and I think the Government may have actually introduced
7 this.

8 I'm going through my notes. I didn't realize, but
9 they had actually introduced some greater amount of casino
10 records than even these, Casino 2, which I think they may have
11 introduced. I don't know.

12 **MS. HOFFMAN:** It was listed as an exhibit, but it
13 hasn't -- Casino 2 has not been introduced.

14 **MS. AMATO:** Okay. So it's just Casino 1, which has
15 the 70,000 -- the W-2s for the 70,000, the two 1,420s.

16 **THE COURT:** Correct.

17 **MS. HOFFMAN:** Right. So let me start with the casino
18 records.

19 So, of course, Mr. Schmidt testified that somewhere
20 over -- I can't remember if he said 70,000 or 80,000. I think
21 maybe he said 80,000 in cash was seized from Corloyd Anderson
22 or for someone who said he had -- was moving the money on
23 behalf of Corloyd Anderson at BWI Airport.

24 And I think what Mr. Schmidt testified to was not
25 necessarily that the documents were fraudulent, but that he

1 couldn't be sure that that's where the money actually came
2 from. Simply having, you know, W-2Gs from -- reflecting a
3 payout from a casino doesn't mean that the money in front of
4 you is from the casino. And it doesn't give you the full
5 picture of earnings versus losses at the casino.

6 And so when Ms. Amato proposed the stipulation this
7 morning, what I said to her was, you know, We may call
8 Shawn Potts in rebuttal to testify about this because the full
9 casino records that we have show actually overall losses. So
10 he's gambling, you know, close to \$200,000 at the casino in one
11 year and losing some significant portion of that.

12 And so his claim that, oh, well these winnings are --
13 you know, this cash that was seized was legitimate because he
14 won it at the casino is, I think, belied by the overall picture
15 that the records present, that he's actually losing money at
16 the casino.

17 **THE COURT:** I mean, that's a very different analysis.
18 You're talking about over a year or a few years, which is very
19 different from verifying reports that are already in evidence
20 as to the 70,000, the two 4,000 -- you know, 1,420 transactions
21 and also, regardless of his overall winning or losing, that he
22 won 8,000 in cash two days before the search.

23 **MS. HOFFMAN:** I don't actually think it's a different
24 analysis. I think it's a misleading picture to paint that
25 he's -- you know, he's this really successful gambler; he's

1 winning money at the casinos; the cash that you're seeing is
2 coming from the casinos.

3 It doesn't explain -- and I think the jury needs to
4 see the whole picture, and this is why I explained to
5 Ms. Amato, Well, then we would want to call him to testify
6 about this.

7 I mean, we wouldn't have agreed to that stipulation if
8 we had known that there was going to be this objection. I do
9 think the jury needs the whole picture because it doesn't
10 explain why he -- it doesn't explain where the cash comes from.

11 And if he's losing money overall at the casinos, then
12 it doesn't explain where all this cash is coming from. There's
13 unexplained money being funneled through the casinos.

14 **THE COURT:** Is there something that would show that he
15 did not take away \$8,000 in cash on September 25th of 2016, for
16 example?

17 **MS. HOFFMAN:** So I think that he did take that away in
18 cash on that day but that he may very well have lost the same
19 amount even on that same day. I mean, it doesn't -- the
20 casinos --

21 **THE COURT:** Do you have that? Is that part of what --
22 Mr. Potts, is it? -- would --

23 **MS. HOFFMAN:** The casinos are required -- my
24 understanding is that the casinos are required to give you this
25 W-2G form whenever there's a payout, and it's not net of

1 losses.

2 And so then the onus is on the actual gambler, the
3 player, to prove to the IRS that -- if they don't want to pay
4 taxes on that, they then have to prove to the IRS that their
5 losses were equal or greater than their winnings in order to
6 not have to pay taxes on that.

7 So you get the W-2G whenever there's a payout even if
8 you lost even more money than that on the same day.

9 **MS. AMATO:** Your Honor, first of all, the Government
10 did not answer the Court's question as to whether or not they
11 have any evidence that he lost that amount or greater on that
12 same day, number one.

13 And I don't believe that he did lose that amount. I
14 think that was the last -- I'll just have to look through my
15 records.

16 But the other point is the Government with their
17 witness, Officer Schmidt, he also testified that the 70,000 --
18 and they can argue this at closing -- that he received was in
19 different amounts. It was in 20s and -- I don't know. He said
20 different amounts.

21 And so they can argue that, well -- I mean, they can
22 argue that even though he won the 70,000, it doesn't mean that
23 the 80,000 that came to the airport was the amount that he won.

24 **THE COURT:** Of course. Of course.

25 **MS. AMATO:** And they can do that based on his argue --

1 saying that what he saw were these different denominations that
2 came in, et cetera.

3 I didn't get into all of the wins and the losses. I
4 mean, there's many more wins. I didn't get into all the wins
5 that he made each year --

6 **THE COURT:** Right.

7 **MS. AMATO:** -- of the \$135,000 that he took home in
8 2013, of the -- you know, et cetera.

9 So I was very isolated, and I did it specifically to
10 respond to things that came up during the direct examination.

11 **THE COURT:** Okay. Unless you have a dispute about the
12 accuracy -- I mean, I'm not -- we're not going to wait so that
13 somebody from Maryland Live! can come in and certify to those
14 particular records. I think this is a much narrower focus than
15 the overall wins and losses that you're proposing.

16 Again, three of them just confirm documents that I
17 believe the Government put in, and the other one is two days
18 before an arrest. It may or may not be the \$2,500 that was in
19 his pocket, but I think it's at least relevant for Mr. Anderson
20 to be able to put that in.

21 And I do not think that it opens the door to a
22 complete analysis of his wins and losses over the year.

23 **MS. HOFFMAN:** And I understand Your Honor's ruling.
24 And that was not my intent to ask him a long series of
25 questions.

1 It would simply be: Did you review the certified
2 records?

3 Which Ms. Amato is very familiar with which do show
4 that, for instance, he gambled \$183,000 at Maryland Live! in
5 2013 and came away with 135,000.

6 I do think that's relevant. I do think that's
7 important information for the jury to have, given the defense
8 that this cash that we're seeing is attributable solely to his
9 gambling winnings.

10 **THE COURT:** Okay. Well, you have your objection. I
11 think that this evidence is much more narrow and focused than
12 that.

13 And so I don't think it's proper rebuttal testimony as
14 to the casino records.

15 Let me move on to the business records. There's a
16 search warrant. There are photographs. And then there are a
17 collection of documents, customer service agreement and receipt
18 books. I mean, I couldn't tell as they were coming in what
19 period they covered or what they added up to or anything like
20 that.

21 What would your witness say in regard to the business
22 records, Ms. Hoffman?

23 **MS. HOFFMAN:** The witness would say that he tallied
24 them all up and that they reflected 10,000-some-odd dollars in
25 receipts for car washes.

1 And the witness would also testify -- and I had an
2 e-mail exchange with Ms. Amato about this last week. She
3 proposed these particular stipulations.

4 And I said that -- I asked [reading]: Would you enter
5 it as part of your case such that we could call a rebuttal
6 witness to testify about the documents if we decide it requires
7 rebuttal?

8 Ms. Amato said [reading]: Yes. I would enter it in
9 part of my case.

10 I said [reading]: In that case, we are okay with the
11 stipulations.

12 And then we explained that we would call Shawn Potts
13 to testify about the tally of the receipts as well as the fact
14 that he looked at certified tax records for Mr. Anderson and
15 that he filed no taxes in the years 2011 to 2016, which
16 together with the casino records showing how much he was
17 gambling would, I think, be significant evidence for the jury
18 to hear.

19 **MS. AMATO:** Your Honor, my client is not charged with
20 tax evasion. That's certainly what all of this would show,
21 that he didn't pay taxes on the casino wins nor on his
22 earnings.

23 The jury can themselves look at the books, and they
24 can get a sense of what he was making. I mean, there's -- he
25 was charging \$10, \$15. It wasn't a very expensive car wash.

1 So I don't believe that the Government needs to call a
2 witness to give a tally of what the jury has. They can look at
3 the numbers. They can add them up. Or they can just get a
4 sense themselves.

5 **THE COURT:** Well, on that, I mean, no. The jury
6 should not have to sit there and add up the receipts.

7 The first part of what the Government proposes, if
8 these records are in, then I think it's perfectly fair and
9 helpful to the jury for someone to say, Well, I've added these
10 up. And it covers this period of time, and it is this amount
11 of money.

12 I would not get into failure to file tax returns. I
13 don't think we need to introduce that separate issue at this
14 point, but if you want someone to testify to what period of
15 time this covered and what it adds up to --

16 **MS. HOFFMAN:** Your Honor, I mean, I think we made it
17 very clear to Ms. Amato that we would not have agreed to these
18 stipulations if not for the ability to call this rebuttal
19 witness to testify to exactly what we told her he would be
20 testifying to, including the tax records and the casino records
21 and the financial documents.

22 **THE COURT:** Can I see your e-mail.

23 **MS. HOFFMAN:** (Hanging.)

24 **THE COURT:** Did we get a response from Ms. Amato after
25 the April 19th e-mail?

1 **MS. HOFFMAN:** I don't believe so. I didn't find one.
2 And so obviously -- I had communicated that in that case, we
3 would enter the stipulations. And then the casino stipulation
4 was proposed in person after that e-mail exchange.

5 And this morning I discussed it with Ms. Amato and
6 told her before I signed it I would then call Shawn Potts to
7 testify about this.

8 And I also think -- I mean, the fact that the tally of
9 receipts -- or the receipt books have put in, have been put
10 into evidence, also makes the casino records relevant in
11 rebuttal.

12 He's got only \$10,000 of explained income in these
13 receipts, and yet he's gambling close to \$200,000 at the
14 casino. That's unexplained wealth.

15 And Ms. Amato is going to stand up in closing and say,
16 You saw that he was making this money from his car wash.

17 And I think we do need to be able to rebut that.

18 **THE COURT:** Well, apparently she's going to be able to
19 stand up and say he made \$10,000, which is not much.

20 But --

21 **MS. AMATO:** No. And, Your Honor, I mean, when this
22 morning I provided them with the casino stipulation, the only
23 thing that I was told -- and that was in regards to all of the
24 stipulations. It wasn't specific to the stipulation -- the
25 casino, was that they were going to call this other witness.

1 She didn't get into all the explanation here she did
2 today as to what she intended to call that witness as in
3 regards to the casino.

4 So it was just -- I understand from the previous
5 e-mail, but -- in terms of the tax issue and then the business,
6 but there was no discussion about the casino records and how it
7 was going to be used today.

8 **THE COURT:** But did you respond to -- on the business
9 records where they said that the witness would testify
10 regarding the tax returns, that there weren't any?

11 **MS. AMATO:** I don't recall, Your Honor. But, I mean,
12 I'm not disputing that -- I mean -- but I just don't think at
13 this point in this trial -- I mean, regardless of whatever
14 income he made, I mean, if he made income from casinos, he
15 didn't pay for it, if he made income from his business, he
16 didn't pay.

17 I mean, it's just -- it would give them a nice
18 tax-evasion case; that's for sure.

19 **THE COURT:** What period of time do these records
20 cover? And what's he going to say --

21 **MS. AMATO:** And the business records only are 2016,
22 and they're only from --

23 **THE COURT:** Oh, they're only 2016?

24 **MS. AMATO:** Right. They're only 2016. And they only
25 cover from April, I believe -- Court's indulgence --

1 **MS. HOFFMAN:** I just -- I mean, I don't think you can
2 put the toothpaste back in the tube like that. I mean, we --

3 **MS. AMATO:** They're from April the 14th through
4 September the 26th of 2016. That's all these records from his
5 business cover. That's the period. That's all I put in.
6 That's all we -- you know, that's it.

7 **MS. HOFFMAN:** I think, you know, we planned our case
8 in a particular way based on what we believed Ms. Amato was
9 agreeing to.

10 I do think that it's relevant.

11 I think that -- frankly, I think the casino records
12 are an important piece of it. I mean, I think that all three
13 of those things combined is what indicates that there's
14 unexplained income here.

15 **THE COURT:** But you didn't introduce this in your
16 case-in-chief. You didn't make an unexplained wealth part of
17 your case-in-chief; right? I mean --

18 **MS. HOFFMAN:** We did with the cash seizure at the
19 airport.

20 And then Ms. Amato said in her defense case that, oh,
21 well here's certified casino records showing that he won money
22 that day.

23 **THE COURT:** But didn't that also come in in the
24 Government's case, the W-2 equivalent?

25 **MS. HOFFMAN:** Yeah. Not the certified casino records;

1 just the fact that Corloyd Anderson showed up at the
2 BWI Airport with these W-2Gs.

3 **MS. AMATO:** And that's why --

4 **THE COURT:** Okay. With the W-2Gs. And what she's
5 offering now are records that will support the accuracy of the
6 W-2Gs. I'm not revisiting the casino issue. I think in
7 terms -- I do have -- there does seem to have been notice,
8 Ms. Amato, that in regard to this stipulation, they would want
9 to get into testimony about the tax returns.

10 Now, it seems to me it's only one year. But if you --

11 **MS. HOFFMAN:** Well, Your Honor, the defendant was
12 incarcerated -- I mean --

13 **THE COURT:** Well, that would be another reason he
14 wasn't filing tax returns.

15 **MS. HOFFMAN:** Right. In 2016. I mean, I think that
16 the 2015 tax records would be -- well, I guess --

17 **THE COURT:** These records -- there are various
18 periods -- and I don't recall what they are, so there are
19 various times when Mr. Anderson may have been incarcerated.
20 These particular records just relate to a certain amount of
21 time in 2016; right?

22 **MS. HOFFMAN:** The -- is Your Honor referring to the
23 financial documents?

24 **THE COURT:** The car wash records. I'm on the business
25 records.

1 **MS. HOFFMAN:** The car wash documents cover a period
2 just in 20 -- just in 2016.

3 **THE COURT:** Okay. Ms. Amato, are you willing to have
4 testimony that for 2016, your client did not file a tax return
5 for this business with an instruction that he's not -- you
6 know, failing to file tax returns is nothing that he is charged
7 with. Or do you want to just stick with the casino records?

8 And then I guess we have the pictures, which is a
9 separate issue. Is there going to be any specific rebuttal in
10 regard to the pictures?

11 **MS. HOFFMAN:** Well, he would just testify that he was
12 there for the search warrant and that there were no cars in the
13 car bays. There was maybe one or two cars in the entire lot,
14 but nothing being serviced or washed.

15 **THE COURT:** Okay. All right.

16 **MS. AMATO:** I mean, the thing is, my client was locked
17 up in 20 -- as we all know, from September 27th to the present.
18 And so for his 2016, he would have been required to pay his
19 taxes in 2017; and he was locked up.

20 And so for as much as that's a reason or excuse as to
21 why he didn't, I mean, it's out there. So I think it's just --
22 I don't know where the Government's going to go with that, but
23 I think it's prejudicial for them to bring in that he -- I
24 mean, it's --

25 **THE COURT:** Would you like to withdraw the business

1 records and just go with the photographs?

2 **MS. AMATO:** Court's indulgence.

3 (The defendant conferred with counsel.)

4 **MS. AMATO:** All right, Your Honor, I have spoken with
5 Mr. Anderson, and we will withdraw that particular -- the
6 stipulation with the receipts, the records of the receipts. I
7 believe that was Exhibit --

8 **THE COURT:** That is Exhibit 17.

9 **MS. AMATO:** -- 17. Okay.

10 **THE COURT:** And so I will instruct the jury that those
11 have been withdrawn and they won't have them at the time and
12 they should just disregard them.

13 As to the -- we'll proceed with the casino records. I
14 don't know if there's anything else that Mr. Potts was going to
15 testify to regarding the casino records, the specific --

16 **MS. HOFFMAN:** I think Your Honor is referring to the
17 financial records. The casino records are not coming in;
18 right?

19 **MS. AMATO:** That's right. I mean -- well, no. What
20 are we -- my stipulation is --

21 **THE COURT:** I'm trying to state something. I'm sorry.

22 On the casino records, my ruling was that her
23 stipulation relating to the four total winnings at various
24 times offered in Defendant's Exhibit 15 did not open the door
25 to an analysis of his overall winnings and losings at the

1 casino.

2 I was simply asking, to avoid any surprise, was there
3 any other rebuttal testimony on the casino records that
4 Mr. Potts would be offered for or would you just not mention
5 the casino records?

6 **MS. HOFFMAN:** I would like to be able to ask him
7 what -- whether the reporting requirements at casinos -- what a
8 W-2G is, what that means.

9 And he's a CPA. He would explain -- he has some
10 knowledge about this. He would explain that those winnings are
11 not profits. They're just a reflection of the payout on a
12 given day and that then the onus is on the gambler to --

13 **MS. AMATO:** I'm sorry. That still goes to, again, the
14 issue of taxes and did he pay.

15 **THE COURT:** Well, no, that's not -- there's not going
16 to be any testimony about whether he paid taxes on any casino
17 money, but the records are not W-2s; right? The records are a
18 report of specific winnings on specific days. What would he
19 say about that?

20 **MS. HOFFMAN:** Nothing. I think Your Honor ruled that
21 those are not coming in, and so we wouldn't ask --

22 **THE COURT:** What's not coming in?

23 **MS. HOFFMAN:** I'm sorry. Maybe I'm completely
24 confused. I thought Your Honor ruled that the casino records,
25 the certified casino records, would not be coming in through

1 Mr. Potts because --

2 **THE COURT:** Right, not through -- no. You are right.
3 Right. The stipulation's coming in, no additional casino
4 records.

5 Okay. Now we understand.

6 **MS. HOFFMAN:** I think so. He would just -- I would
7 like to ask him, if Your Honor permits it, simply what a W-2G
8 is. What does that mean? Is it profits or is it just
9 winnings?

10 **THE COURT:** That it's winnings on a particular day.

11 **MS. HOFFMAN:** Yes.

12 **THE COURT:** Okay.

13 **MS. AMATO:** I guess the question is: How would this
14 particular witness be in the right position to answer that
15 question?

16 **THE COURT:** Is he an employee of
17 Maryland Live! Casino?

18 **MS. HOFFMAN:** No, he's not. He's a CPA who has some
19 knowledge about financial records.

20 **THE COURT:** All right. Then I will sustain the
21 objection. We are talking about records of regularly conducted
22 business activity of Maryland Live! Casino. This is in
23 response to the W-2, whatever they are, forms that were
24 introduced by the Government and in response to the fact that
25 Mr. Anderson had \$2,500 in cash on September 25th of 2016.

1 So that's where the casino stuff stands.

2 **MS. AMATO:** So, Your Honor, at this point I'd like to
3 know what the Government intends to bring the rebuttal witness
4 for.

5 **THE COURT:** As I understand it, the photographs are
6 still in evidence. And they would call him simply to testify
7 that at the time on the day he was there and these photographs
8 were taken, there was very little business going on. A car or
9 two; right?

10 **MS. HOFFMAN:** I think, Your Honor -- and I apologize,
11 but, I mean, given Your Honor's rulings that the casino records
12 aren't coming in -- the financial stipulation has now been
13 withdrawn, so he's not going to be testifying about a tally.

14 I mean, I think we've just had him drive here for
15 nothing. I don't think there's any point in calling him if he
16 can't testify about the tax records, the casino records, or the
17 financial documents.

18 I do wish that we had known this before we signed the
19 stipulations and had them read to the jury.

20 **THE COURT:** Yes, I agree. I apologize. I mean, I'm
21 not apologizing. I'm sorry that there was not better
22 communication between counsel.

23 But at this point I'm bringing the jury back in simply
24 to tell them that the business records -- the records of --
25 documents, business records seized at We Cater to You Motors on

1 September 27th have been withdrawn and should not be considered
2 for any purpose. And in light of that, the evidence is closed,
3 done, nothing else.

4 Okay. All right. Let's get the jury.

5 (Jury entered the courtroom at 4:33 p.m.)

6 **THE COURT:** Okay, ladies and gentlemen. I've been in
7 conversations.

8 Where we are now is the following. There was a
9 stipulation and a copy of certain documents introduced,
10 documents seized from a business called We Cater to You Motors.
11 That stipulation and those documents are being withdrawn. They
12 are not evidence, may not be considered by you as evidence.
13 They have been withdrawn.

14 The other stipulations remain.

15 And with that, I believe that would conclude -- I
16 believe we have already -- the defense evidence.

17 **MS. AMATO:** Yes, Your Honor.

18 **THE COURT:** And my understanding in light of that, the
19 withdrawal, is that the Government will not be calling a
20 rebuttal witness; correct?

21 **MS. HOFFMAN:** That's correct.

22 **THE COURT:** Okay. So the evidence is done.

23 Keep an open mind. You haven't heard the
24 instructions. You haven't heard the arguments.

25 As I did indicate before, I appreciate your patience.

1 By waiting to see exactly what happened today, it means that we
2 will not ask you to come in tomorrow. We will spend the day
3 tomorrow making sure that we have all these instructions and
4 verdict sheets and so forth ready for you.

5 So I do still expect you're getting the case, as I
6 said, this week. I think it will begin Wednesday that you will
7 have instructions and argument.

8 There are a number of folks involved. There are a
9 number of issues. You've been here for a number of weeks. So
10 it may take some time for all the instructions and argument to
11 be done.

12 I need to sort of go over that precisely with counsel,
13 but it would not surprise me if it carried over into Thursday
14 before you actually began to deliberate.

15 But you will have the case.

16 All right. Anything else, counsel, that I should say
17 at this moment before I excuse the jury?

18 **MS. WHALEN:** No, Your Honor.

19 **MR. ENZINNA:** No, Your Honor.

20 **MS. HOFFMAN:** No.

21 **THE COURT:** Okay. All right. Same instructions.
22 Keep an open mind. Leave your notes here.

23 Thank you very much. Don't do any research.

24 Please come back at 10 o'clock on Wednesday.

25 Thank you.

1 (Jury excused at 4:35 p.m.)

2 **THE COURT:** All right. Counsel, you've given me
3 various instructions and so forth to look at.

4 I will try to put together an additional draft.

5 I'm going to propose that perhaps we meet in chambers
6 at 3 o'clock tomorrow, if that would work, to discuss the
7 issues that have been raised about the instructions and about
8 the verdict sheet. And by that time, perhaps I'll have another
9 draft.

10 Any other issues?

11 **MS. HOFFMAN:** Just that we noticed in going through
12 the instructions again, Instruction No. 55, I believe, which is
13 on Page 83, there's mistakenly included a fourth element of the
14 VICAR murder, which is that there was a conspiracy to commit
15 murder.

16 That was an error. It was a copy-and-paste job for an
17 instruction for a conspiracy, and so I think that fourth
18 element should be removed.

19 **THE COURT:** Sure. And I'm sorry. What page did you
20 say it was on?

21 **MS. HOFFMAN:** I believe it was Page 83. Did I get
22 that wrong?

23 **THE COURT:** Or instruction number --

24 **MS. HOFFMAN:** Instruction No. 55.

25 **THE COURT:** Okay. Fourth element.

1 **MS. HOFFMAN:** Or sorry -- yeah. Ms. Perry has pointed
2 out we don't need to remove it. We need to change if from
3 "conspired to commit" to "committed the alleged murder." And
4 that was my mistake copying and pasting from another
5 instruction.

6 **THE COURT:** Okay. "Committed" instead of "conspired."

7 All right. Anybody else?

8 (No response.)

9 **THE COURT:** Okay. Subject to anything else coming up
10 tomorrow, I'll see everybody in chambers at 3 o'clock --
11 lawyers, that is.

12 Okay. I'm about to say the gallery is excused. Is
13 there something else?

14 Ms. Moyé is keeping track of me.

15 And the gallery is excused.

16 (Pause.)

17 **THE COURT:** All right. Again, we're finished for
18 today. And I'll see counsel at 3:00 in chambers and everybody
19 else 10 o'clock on Wednesday morning.

20 Thank you.

21 (Court adjourned at 4:39 p.m.)
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I, Douglas J. Zweizig, RDR, CRR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

/s/

Douglas J. Zweizig, RDR, CRR, FCRR
Registered Diplomate Reporter
Certified Realtime Reporter
Federal Official Court Reporter
DATE: November 20, 2019

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